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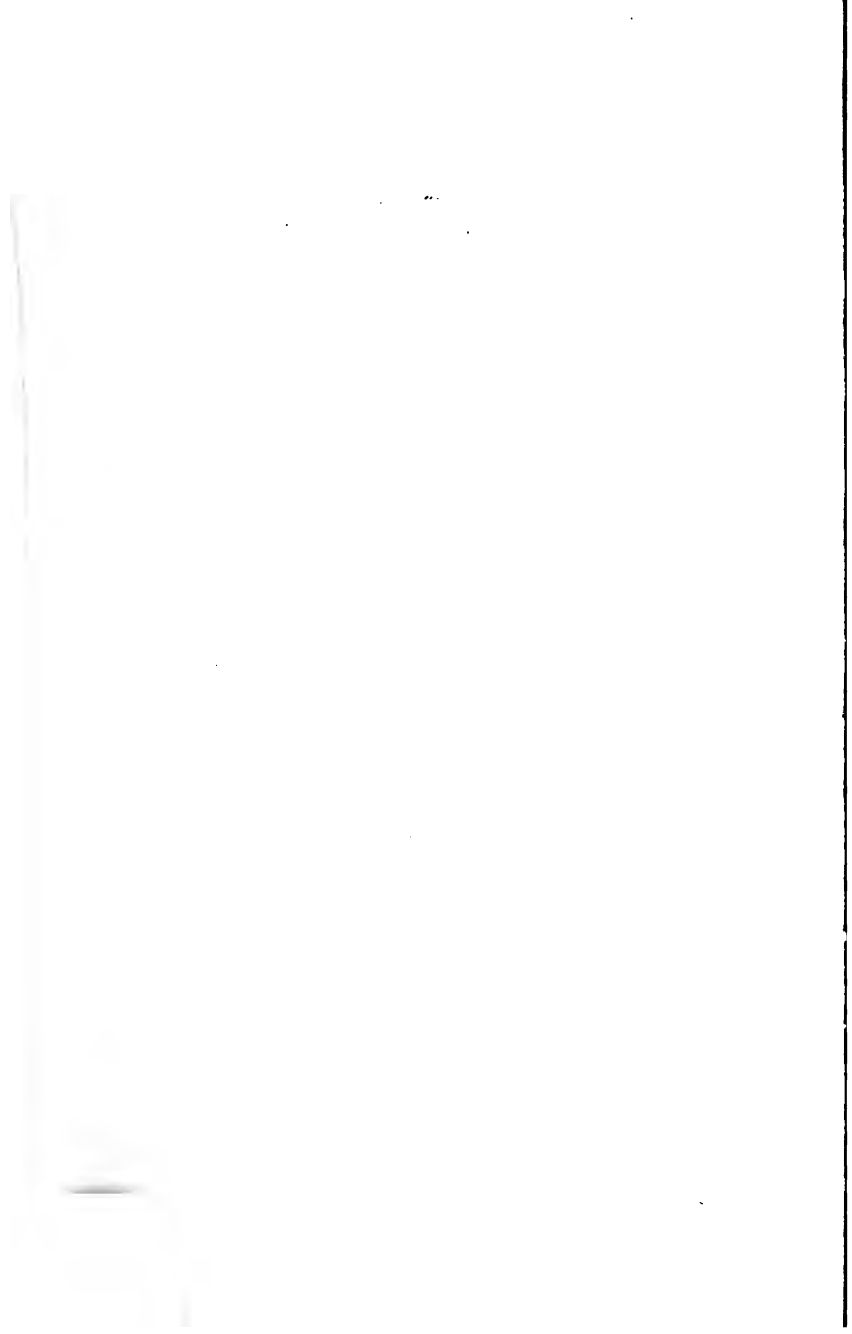
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“LAW
AND
LAWYERS
IN
LITERATURE”

BY
IRVING BROWNE
AUTHOR OF “HUMOROUS PHASES OF THE LAW,” “SHORT STUDIES
OF GREAT LAWYERS”

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SOULE AND BUGBEE
1883

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INTRODUCTION.

IT is my purpose to show how the Law and the Lawyers have been depicted in Literature. I shall do this by extracts from the chief dramatists, novelists, historians, essayists, and moralists, with occasional notes of illustration, suggestion, or protest. There is, undoubtedly, and always has been, a tendency on the part of mankind to rail against and make fun of all the learned professions. To call the clergyman a hypocrite, the physician a murderer, and the lawyer a liar, has long been one of the favorite amusements of a numerically considerable part of mankind. Much of this is mere *badinage*, but a good deal is serious; and in the portion that is not avowedly serious, there is frequently a grain of earnest. The mass of men do not love men who are able to get a living, and attain honors, without the use of money or muscle. The capitalist thinks very

little of those who do not lean upon capital ; the merchant has no great respect except for the results of trade ; the mechanic is envious of one who is not obliged to toil with his hands. So, from all these classes, there is a continual under-current of chaffing of the professional men. They are only tolerated because and when they are indispensable. The clergyman is called in to scare away the terrors of sickness and death ; the physician is summoned to cure the pains and ills of life ; the lawyer is retained to rescue estates, to make wills, to defend against criminal accusations. Quite in proportion to the carelessness and indifference, or the hostility and envy, with which the learned men have been regarded, are the slavishness of the dependence and the implicitness of trust which are shown when the learned men become necessary or convenient. A man who is or imagines himself dying forgets the sport he has made of the clergyman's long face, sober dress, solemn ways, set speech, and quarrels with other sectarians, and has him in at once to pray over him. Even if he has neglected and scoffed at him all his life, he is pretty sure to want him toward the last. So, when a man has the gout or the stomach-ache, he forgets what he

has merrily said about calomel and high dilutions, the fatality of medical councils, the appropriateness of the doctor's heading the funeral procession, and the like, and shrieks for the doctor in a roaring hurry. And so when a man wants a contract or á will drawn, or to sue, or to defend a suit, or to get rid of his wife, or to prevent his wife's getting rid of him, or to rescue his own estate, or to capture somebody else's, he retains legal counsel, and forgets all about his long speeches and long bills, his wig and his gown, and his green bag, his willingness to serve the first paying comer, and his zeal, which, like the affliction of the hired mourner in the East, is at the service of his client without much regard to his deserts. Men must have somebody to laugh at and abuse, and they do not always restrict themselves to the learned professions in this regard. There are certain tradespeople who serve a like purpose; as for example, undertakers and plumbers, who are avoided as much as possible, but who must be sent for in a hurry when the water-pipes burst, or the pitcher is broken at the fountain.

The Law and the Lawyer have oftener been the subject of animadversion and ridicule on the stage than any other class and profession. Per-

haps they have not suffered more abuse in general literature than the clergy, but the rascally attorney has always been a favorite character in the drama. Perhaps the playwrights, themselves originally an ostracised class, desired to bring down a powerful class to their own level. The lawyer is better game than the physician, for it requires the wit of a Molière to make any thing of the latter; but the lawyer comes in play so handily that the vulgar playwright, supplemented by a vulgar actor, never fails to bring down the house by caricaturing an attorney. It must be admitted that a virtuous attorney would be of little interest on the stage. He is nothing but a lay-figure, even in Hogarth's "Marriage à la Mode." We are all familiar with the conventional attorney of the ephemeral modern drama. We must not waste our time over him. But we will review the more respectable dramatists, and their method of portraying our subject.

In like manner I shall not try to keep abreast with the absurdities which the crowd of modern light novelists and magazine-writers have endeavored to make pass for law. There are, however, occasional writings of this sort clever enough to deserve a passing allusion without warranting an

extended quotation or commentary. For example, the most graphic account of the deliberations of a jury on which there are eleven obstinate men, that has ever come under my notice, is to be found in a story in "The Century" magazine for November, 1881, entitled "Eli." The queer characters constituting the jury are admirably depicted; and the various arguments which the eleven brought to bear upon the one are narrated with a knowledge of human nature that led me for a moment to suspect that the author is a lawyer, or has sat on a "hung" jury. Especially amusing is the device of the eleven to worry out the one by allowing ten to sleep, and another to argue with him, by turns, all night. But after all, this fine image with head of gold has feet of clay. What is the evidence upon which the eleven are so ready to convict the prisoner of robbery? The offence charged is the robbery of a bank-vault, the lock of which is found broken, but which experts say was first unlocked. Only two persons have keys,—the president, and the prisoner (who had recently taken the cashier's place, and performed his duties in his absence for a short time). On the night of the robbery, the prisoner, who was a fisherman, was seen at one

o'clock coming across the fields from the direction of the bank, with a large wicker basket slung over his shoulders. He said he had been eel-spearing. The president swore that he himself did not rob the bank. This is all the implicating testimony reported. None of the plunder traced to the prisoner, no sudden affluence, no suspicious conduct, no confession or significant admission. The prisoner proved a good reputation. This was the evidence on which eleven men proposed to convict their reputable townsman! On such a case a jury might possibly disagree, but it would be eleven to one the other way. Really, the gifted author should have taken legal counsel before he wrote this clever story, just as Bulwer did before he wrote "Night and Morning."

Two other recent writers of fiction in magazine serials have tried their hands at depicting court-scenes: namely, Miss Woolson, in "Anne," in "Harper's;" and Mr. Howells, in "A Modern Instance," in "The Century." Mr. Howells is cautious enough, however, not to describe a trial, but contents himself with opening a default in a divorce case. The rascally plaintiff—husband, of course—runs away, and institutes a suit in Indiana—of course, although it might as well have been in

Connecticut — for divorce for desertion, and gets his decree by default on service of process by publication in the newspapers. Providentially one of these newspapers falls into the hands of the wife's friends; providentially her father is an old lawyer up in Maine, who always hated the husband, and who starts by next train, and reaches the court just in season, is admitted on motion, makes an inflammatory speech, and providentially then and there tumbles down in a fatal paralysis. The scene is tolerably exciting, but cheap. Miss Woolson tells a wonderful tale of circumstantial evidence, — how a left-handed rascal's left hand found him out. All this is well enough for the readers of "Harper's" and "Century," but neither can be pronounced a great success so far as depicting court-scenes is concerned. In this respect, a little story, written by Mr. Deming of Albany, N.Y., and published in "The Atlantic" for April, 1882, is far superior. Indeed, I have never read anything more correctly realistic. As the author is an old court stenographer, he had the advantage of knowing something of what he was talking about. But as nobody tumbles down in paralysis, or is discovered by his left-handedness, of course it is "dull" in comparison with the serials aforesaid.

Of course I shall not include newspapers in the term "literature." For obvious reasons, I shall not say any thing against newspapers ; but they are not literature. They do have a great deal to say against lawyers, and very little in their favor. This is somewhat singular too : for as Napoleon said, if you scratch a Russian you find a Tartar ; so I believe, if you scratch an editor, you very often find a lawyer. Mr. Lecky attributes much of the force and influence of the modern English press to the strong infusion of lawyers in recent journalism. But these lawyer-editors are so powerful individually, and there are so many of them, that it is the part of discretion to let them alone. Their power is a surprise to me, however ; for the man who should stand on the corner of the streets, and utter his sentiments on any subject, political, legal, or moral, and would find no one to pay him any attention, will command wide-spread attention and considerable acceptance if he sets up as an editor, and prints the same sentiments. Such is the superiority of written to parol evidence. The nearest approach to a newspaper to which I shall pay any attention is "The Spectator." I am confirmed in this determination by a recent number of the London

"Truth" newspaper. When a newspaper assumes superior correctness, not only by its name, but by its conduct, we are entitled to look for something a little above the ordinary in its representations of this subject. Yet in a recent number of this newspaper, we find a story not a whit behind the average newspaper in legal absurdity. A lawyer is called on by an utter stranger to draw his will, and is offered the executorship and a legacy of five hundred pounds for his trouble. This is in strict confidence and secrecy; because the testator proposes to cut off his family, and substitute his valet as beneficiary. The lawyer complies without any inquiries, and it does not even appear that any extra precautions in the execution are taken on account of the benefit which he is to take under the will. After this he gives the testator his check for two hundred pounds as a loan. Of course, the testator is the valet in *disguise*. Of course, too, the affair comes out all right; but it is on account of the superior shrewdness of the lawyer's clerk. So much for Mr. Labouchere, the editor who writes "I" instead of "we," and assumes always to tell the "truth."

I do not pretend that the following review is

exhaustive. It does not present all that I have found; and doubtless there is much that I have not found. But I hope that there is enough set forth to give the outlines of the portraiture, and to amuse readers who have any interest in the subject.

I. B.

ALBANY, N.Y., December, 1882.

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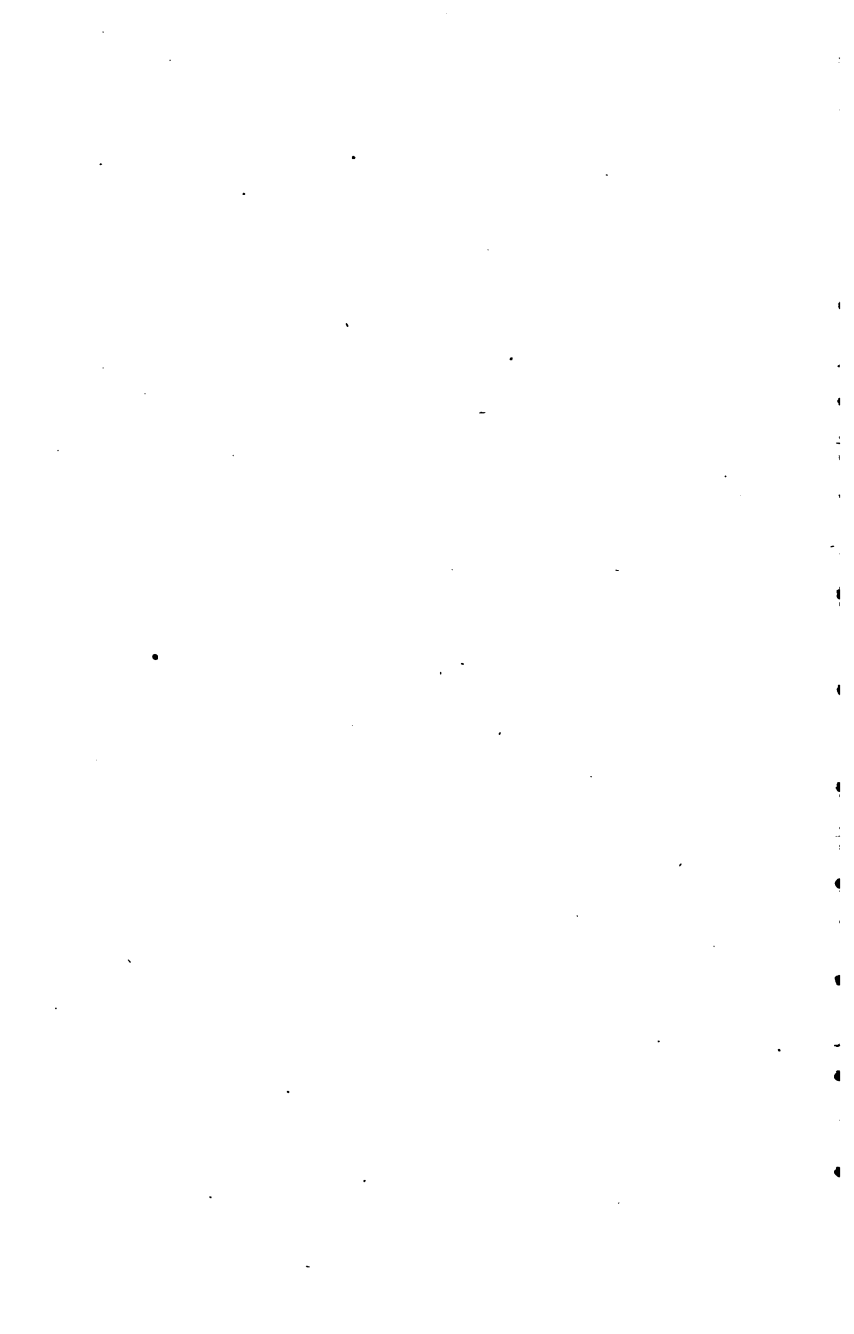
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LAW AND LAWYERS IN LITERATURE.

I.

AS DEPICTED BY THE DRAMATISTS.

ARISTOPHANES.

IN the "Wasps" we have a most vivid picture and admirable satire of the administration of law in ancient Athens. The state treasury was replenished by fines imposed by the courts upon delinquents, and of the money thus extorted a great part was bestowed on public feasts and amusements. Under such circumstances a rich defendant stood but a slender chance of escape; and the six thousand dicasts, or jurymen, of Athens, acquired a passionate fondness for attending the courts. In this comedy, Philocleon, an old dicast, has become nearly insane in his eagerness to discharge his official duties. "He cannot sleep for thinking of the bench, and prefers to his comfortable bed at home a shake-down at the door of the court, that he may secure a good seat in the front row when the business com-

mences. There, with his staff in his hand, and his judicial cloak on his shoulders, his delight is to sit all day earning his three *oboli*, and having his ears tickled with the gross flattery by which litigant parties at Athens sought to conciliate the favor of the judges." His son is much disgusted at his father's mania, and determines to prevent his going abroad, and so guards the outer door, and stretches a net over the court-yard. The old dicast tries to escape by way of the chimney, but in spite of his assertion that he is smoke, is dislodged. Next he pretends to be anxious to go out to sell an ass; but the son offers to do it for him, and bringing out the animal, discovers that the old man had strapped himself under its belly. Another attempt to escape, by creeping along the roof-tiles, is baffled. Just then a chorus of his fellow-dicasts, dressed and painted to resemble wasps, call on their way to court to inquire why their brother does not accompany them. The wasps and the father rail against the son, who, in defence, asserts that his father has been cheated, and that the career of the dicast is a state of abject servitude. The old man insists that he has, by virtue of his office, an almost despotic power. The chorus is appointed to determine the justice of the dispute, and the argument commences. In Philocleon's account of the delights of his office, the poet lashes the abuses of the system with an unsparing hand. The result of the argument is, that the chorus entreat the old man to submit to his son's wishes. But as the passion is still strong on him, the son suggests that he shall institute a domestic court, and try causes at home. Opportunely a dog, Cleon, appears, and complains that another dog, Labes, has carried off and eaten a Sicilian

cheese. The old man insists on trying this cause immediately. So the indictment is framed, —

“The dog of Cydathenus doth present
Dog Labes, of Æxone, for that he —
Singly, alone — did swallow and devour
One whole Sicilian cheese, against the peace.”

The trial goes on, speeches are made pro and con; and the old dicast votes an acquittal for the first time.

TERENCE

has his joke on the lawyers in “Phormio, the Parasite.” He makes a father consult three lawyers together as to the feasibility of setting aside a judgment of the court upon certain affairs of his son. One advises him that the decree will certainly be reversed; another that it assuredly cannot be reversed; and the third declares it an intricate question, and that he needs time to deliberate. The questioner leaves in despair, saying he is much more at a loss than before.

ANONYMOUS.

This very prolific and talented author, in an obscure play entitled “Sir Thomas More,” found in the collection of the Shakspeare Society, and supposed to have been composed about the close of the sixteenth century, introduces us to a merry scene in court. Lifter is haled before the court on a charge of picking a pocket. Smart, the complainant, appears in person, and by Suresbie, as his attorney. The attorney takes the novel ground that the complainant was to blame for carrying so much money as ten pounds, the sum he lost, about him: —

“I promise ye, a man that goes abroad
 With an intent of trueth, meeting such a bootie,
 May be provokte to that he never meante.
 What makes so many pilferers and fellows,
 But such fond baites that foolish people lay
 To tempt the needie, miserable wretche?”

While the jury are out, Sir Thomas More, then sheriff, offers the prisoner, if he will pick the attorney's pocket, to bring him safely off from this accusation. This is done, and the purse is handed to Sir Thomas. The jury find the prisoner guilty. He is sentenced to die; and according to custom, a subscription is taken to buy him a burial-place. When Suresbie looks for his purse, it is, of course, gone; and he makes great outcry, alleging it contained seven pounds. Thereupon Sir Thomas quotes to him his own views above given on carrying about so much money, *in hæc verba*. His purse is returned to him; and we conclude, although it is not expressly stated, that the prisoner is let off. This incident is founded on facts related in a Life of Sir Thomas.

Justice was more speedy in those days than now, if we may believe what the sheriff says of some criminals sentenced to execution:—

“Bring them away to execution;
 The writt is come aboove two houres since:
 The cyttie will be fynde for this neglect.”

After Sir Thomas is made chancellor, expecting a visit of ceremony from the learned Erasmus, he dresses up his servant Randall in his robes of office, and passes him off on the scholar as the chancellor. The cheat is discovered when Erasmus addresses the fictitious chan-

cellor in Latin, and is answered in English, rather commonplace at that. On More's fall, he declares that

"halting souldiers and poore needie schollers
Have had my gettings in the Chancerie ;"

and laughs to himself,

"To thinke but what a cheate the crowne shall have
By my attaindour!"

On the scaffold, to the executioner, who asks his forgiveness, he gives his purse, saying, "I had rather it were in thy power to forgive me, for thou hast the sharpest action against me ; the law, my honest freend, lyes in thy hands now ; here's thy fee ; and my good fellowe, let my suite be dispatchted presently ; for 'tis all one payne, to dye a lingering death, and to live in the continual mill of a lawe suite."

GREENE.

In Robert Greene's "London and England," we find a client "fain to lay his wife's best gown to pawn" for a lawyer's fees. Thrasibulus borrowed forty pounds of a usurer, "whereof he received ten pound in money and thirty pound in lute strings, whereof he could by great friendship make but five pound." By the obligation, the money was to be repaid between three and four o'clock of a certain afternoon ; but the usurer held the debtor with "brabbling" (quarrelling) "till the clock strook." Held, that the debtor lost his lands which he had "bound in recognizance" for the loan. So Alcon lost his cow which he pledged to the usurer, because he broke a day. In this instance the interest was eighteen pence a week, and the "usury" was the cow's milk.

In the same dramatist's "James the Fourth," a lawyer, a merchant, and a divine rate one another as being responsible for the civil disorders of the time. The divine tasks the lawyer : —

"Why devise you
 Clauses, and subtle reasons to except?"
 "It is your guise
 To coin provisos to beguile your laws,
 To make a gay pretext of due proceeding,
 When you delay your common pleas for years."
 "You fleece them of their coin, their children beg,
 And many want, because you may be rich."
 "The law, say they, in peace consumed us,
 And now in war we will consume the law."

MIDDLETON,

in "The Phoenix," has a very amusing character, Tangle, "an old, crafty client, who, by the puzzle of suits and shifting of courts, has more tricks and starting-holes than the dizzy pates of fifteen attorneys; one that has been muzzled in law like a bear, and led by the ring of his spectacles from office to office;" "some say he's as good as a lawyer; marry, I'm sure he's as bad as a knave; if you have any suits in law he's the fittest man for your company; has been so towed and lugged himself, that he is able to afford you more knavish counsel for ten groats than another for ten shillings;" "an old, busy, turbulent fellow; a villainous law-worm that eats holes in poor men's causes."

Then ensues the following scene between Tangle and two suitors, who have come to him for advice : —

"*First Suitor.* May it please your worship to give me leave?

Tangle. I give you leave, sir : you have your *veniam*. Now fill me a brown toast, sirrah.

First Suit. Has brought me into the court ; marry, my adversary has not declared yet.

Tang. *Non declaravit adversarius*, sayest thou ? what a villain's that ! I have a trick to do thee good : I will get thee out a proxy, and make him declare, with a pox to him.

First Suit. That will make him declare, to his sore grief ; I thank your good worship ; but put case he do declare ?

Tang. *Si declarasset* if he should declare there —

First Suit. I would be loath to stand out to the judgment of that court.

Tang. *Non ad iudicium*, do you fear corruption ? then, I'll relieve you again : you shall get a *supersedeas non molestandum*, and remove it higher.

First Suit. Very good.

Tang. Now, if it should ever come to a *testificandum*, what be his witnesses ?

First Suit. I little fear his witnesses.

Tang. *Non metuis testes ?* more valiant man than Orestes.

First Suit. Please you, sir, to dissolve this into wine, ale, or beer. (*Giving money.*) I come a hundred mile to you, I protest, and leave all other counsel behind me.

Tang. Nay, you shall always find me a sound card : I stood not 'a' th' pillory for nothing in '88 ; all the world knows that. Now let me despatch you, sir. I come to you *presenter*.

Second Suit. Faith, the party hath removed both body and cause with a *habeas corpus*.

Tang. Has he that knavery? but has he put in bail above, canst tell?

Second Suit. That I can assure your worship he has not.

Tang. Why, then, thy best course shall be to lay out more money, take out a *procedendo*, and bring down the cause and him with a vengeance.

Second Suit. Then he will come indeed.

Tang. As for the other party, let the *audita querela* alone: take me out a special *supplicavit*, which will cost you enough, and then you pepper him. For the first party after the *procedendo* you'll get costs; the cause being found, you'll have a judgment; *nunc pro tunc*, you'll get a *venire facias* to warn your jury, a *decem tales* to fill up the number, and a *capias utlegatum* for your execution.

Second Suit. I thank you, my learned counsel."

Phoenix then enters, telling Tangle he knew him "in *octavo* of the duke, but still in law: " —

"*Tang.* Still in law? I had not breathed else now; 'tis very marrow, very manna to me to be in law; I'd been dead ere this else. I have found such sweet pleasure in the vexation of others, that I could wish my years over and over again, to see that fellow a beggar, that bawling knave a gentleman, a matter brought e'en to a judgment to-day, as far as e'er 'twas to begin again to-morrow. O raptures! here's a writ of demur, there a *procedendo*, here a *sursurrara*, there a *capiendo*, tricks, delays, money — laws!

Phoenix. Is it possible, old lad?

Tang. I have been a term-trotter myself any time these five and forty years, — a goodly time and a gra-

cious ; in which space I ha' been at least sixteen times beggared, and got up again ; and in the mire again, that I have stunk again, and yet got up again.

Phæ. And so clean and handsome now?

Tang. You see it apparently ; I cannot hide it from you : nay, more, in *felici hora* be it spoken ; you see I'm old, yet have I at this present nine and twenty suits in law !

Phæ. Deliver us man !

Tang. And all not worth forty shillings.

Phæ. May it be believed?

Tang. The pleasure of a man is all.

Phæ. An old fellow, and such a stinger !

Tang. A stake pulled out of my hedge, there's one ; I was well beaten, I remember, that's two ; I took one abed with my wife again her will, that's three ; I was called cuckold for my labour, that's four ; I took another abed again, that's five ; then one called me wittol, that's six ; he killed my dog for barking, seven ; my maid-servant was knocked at that time, eight ; my wife miscarried with a push, nine ; *et sic de cæteris*. I have so vexed and beggared the whole parish with process, subpoenas, and such-like molestations, they are not able to spare so much money from a term as would set up a new weather-cock : the church wardens are fain to go to law with the poor's money.

Phæ. Fie, fie !

Tang. And I so fetch up all the men every term-time, that 'tis impossible to be at civil cuckoldry within ourselves, unless the whole country rise upon our wives.

Phæ. An excellent stratagem ; but of all I most won

der at the continual substance of thy wit, that having had so many suits in law from time to time, thou hast still money to relieve 'em.

Tang. Why do you so much wonder at that? Why, this is my course : my mare and I come up some five days before a term.

Phæ. A good decorum !

Tang. Here I lodge, as you see, amongst inns and places of most receipt —

Phæ. Very wittily.

Tang. By which advantage I dive into countrymen's causes ; furnish em' with knavish counsel, little to their profit ; buzzing into their ears that course, this writ, that office, this *ultimum refugium* ; as you know I have words enow for the purpose.

Phæ. Enow a' conscience, i' faith.

Tang. Enow a' law, no matter for conscience. For which busy and laborious sweating courtesy, they choose but feed me with money, by which I maintain mine own suits ; hoh, hoh, hoh ! Another special trick I have, — nobody must know it, — which is, to prefer most of these men to one attorney, whom I affect best, to answer which kindness of mine he will sweat the better in my cause, and do them the less good ; take't of my word, I helped my attorney to more clients last term than he will despatch all his lifetime."

Phoenix utters these fine lines : —

"Thou angel sent amongst us, sober Law,
Made with meek eyes, persuading action,
No loud, immodest tongue,
Voic'd like a virgin, and as chaste from sale,
Save only to be heard, but not to rail ;

How has abuse deform'd thee to all eyes,
 That where thy virtues sat, thy vices rise !
 Yet why so rashly for one villain's fault
 Do I arraign whole man ? Admired Law,
 Thy upper parts must needs be sacred, pure,
 And incorruptible ; they're grave and wise :
 'Tis but the dross beneath 'em, and the clouds
 That get between thy glory and their praise,
 That make the visible and foul eclipse ;
 For those that are near to thee are upright,
 As noble in their conscience as their birth ;
 Know that damnation is in every bribe,
 And rarely ¹ put it off from 'em : rate the presenters,
 And scourge 'em with five years' imprisonment,
 For offering but to tempt 'em.
 'Thus is true justice exercis'd and us'd ;
 Woe to the giver when the bribe's refused !
 'Tis not their will to have law worse than war,
 Where still the poor'st die first ;
 To send a man without a sheet to his grave,
 Or bury him in his papers ;
 'Tis not their mind it should be, nor to have
 A suit hang longer than a man in chains,
 Let him be ne'er so fasten'd. They least know
 That are above, the tedious steps below."

The following is a scene between Falso, who is a justice of the peace, and some suitors : —

" *First Suitor.* May it please your good worship, master justice —

Falso. Please me and please yourself : that's my word.

First Suit. The party your worship sent for will by no means be brought to appear.

¹ Finely, nobly.

Fal. He will not? then, what would you advise me to do therein?

First Suit. Only to grant your worship's warrant, which is of sufficient force to compel him.

Fal. No, by my faith, you shall not have me in that trap: am I sworn justice of peace, and shall I give my warrant to fetch a man against his will? Why, there the peace is broken. We must do all quietly: if he come, he's welcome; and as far as I can see yet, he's a fool to be absent—ay, by this gold is he, which he gave me this morning. (*Aside.*)

First Suit. Why, but may it please your good worship—

Fal. I say again, please me and please yourself: that's my word still.

First Suit. Sir, the world esteems it a common favor, upon the contempt of the party, the justice to grant his warrant.

Fal. Ay, 'tis so common, 'tis the worse again: 'twere the better for me were't otherwise.

First Suit. I protest, sir, and this gentleman can say as much, it lies upon my half-undoing.

Fal. I cannot see yet that it should be so,—I see not a cross yet. (*Aside.*)

First Suit. I beseech your worship, shew me your immediate favour, and accept this small trifle but as a remembrance to my succeeding thankfulness.

Fal. Angels? I'll not meddle with 'em: you give 'em to my wife, not to me.

First Suit. Ay, ay, sir.

Fal. But I pray tell me now, did the party *viva voce* with his own mouth, deliver that contempt, that he would not appear, or did you but jest in't?

First Suit. Jest? no, a' my troth, sir: such was his insolent answer.

Fal. And do you think it stood with my credit to put up such an abuse? Will he not appear, says he? I'll make him appear with a vengeance. Latronello!
(*Enter Latronello.*)

Lat. Does your worship call?

Fal. Draw me a strong-limbed warrant for the gentleman speedily: he will be bountiful to thee. Go and thank him within.

First Suit. I shall know your worship hereafter.

Fal. Ay, I pray thee do. (*Exeunt Suitors with Latronello.*) Two angels, one party, four another; and I think it a great spark of wisdom and policy, if a man come to me for justice, first, to know his griefs by his fees, which be light, and which be heavy: he may counterfeit else, and make me do justice for nothing; I like not that; for where I mean to be just, let me be paid well for it: the deed so rare purges the bribe."

A fencing-match ensues between Falso and Tangle, introductory to which the latter describes the weapons:—

"*Tang.* Your longsword, that's a *writ of delay*.

Fal. Mass, that sword's long enough, indeed: I ha' known it to reach the length of fifteen terms.

Tang. Fifteen terms? that's but a short sword.

Fal. Methinks 'tis long enough: proceed, sir.

Tang. A *writ of delay*, longsword; *scandala magnatum*, backsword.

Fal. Scandals are backswords, indeed.

Tang. *Capias cominus*, case of rapiers.

Fal. O desperate!

Tang. A *latitat*, sword and dagger; a writ of execution, rapier and dagger.

Fal. Thou art come to our present weapon; but what call you sword and buckler, then?

Tang. Oh, that's out of use now! Sword and buckler was called a *good conscience*, but that weapon's left long ago: that was too manly a fight, too sound a weapon, for these our days."

Tangle's suits go against him; and he raves, pronouncing "a terrible, terrible curse upon you all, I wish you to my attorney. See where a *præmunire* comes, a *dedimus potestatem*, and that most dreadful execution, *excommunicato capiendo*! There's no bail to be taken: I shall rot in fifteen jails, make dice of my bones, and let my counsellor's son play away his money with 'em." Phoenix declares that "who so loves law dies either mad or poor," and pronounces him mad; to which Fidelo excepts, saying, "If he be any way altered from what he was, 'tis for the better." Tangle says he will set himself "free with a *deliberandum*;" prays for "an *audita querela* or a *testificandum*;" "an extent, a proclamation, a summons, a recognisance, attachment, and injunction; a writ, a seizure, a writ of 'praisement, an absolution, a *quietus est*!" His distemper is exorcised by Quieto in the following formula:—

"The balsam of a temperate brain
I pour into this thirsty vein,
And with this blessed oil of quiet,
Which is so cheap that few men buy it,
Thy stormy temples I allay;
Thou shalt give up the Devil, and pray;

Forsake his works, they're foul and black,
 And keep thee bare in purse and back.
 No more shalt thou in paper quarrel,
 To dress up apes in good apparel.
 He throws his stock and all his flock
 Into a swallowing gulf,
 That sends his goose unto his fox,
 His lamb unto his wolf.
 Keep thy increase,
 And live at peace,
 For war's not equal to this battle;
 That eats but men; this men and cattle:
 Therefore no more this combat choose,
 Where he that wins does always lose;
 And those that gain all with this curse receive it,
 From fools they get it, to their sons they leave it."

The following deed by the "Captain," who sells his wife just as he is going a voyage, might be a useful precedent to those on whom the obligations of matrimony rest lightly, and save them the expense and annoyance of several weeks' residence in some western State:—

"To all good and honest Christian people, to whom this present writing shall come, know you for a certain, that I, captain, for and in the consideration of five hundred crowns, have clearly bargained, sold, given, granted, assigned, and set over, and by these presents do clearly bargain, sell, give, grant, assign, and set over, all the right, estate, title, interest, demand, possession, and term of years to come, which I, the said captain, have, or ought to have, in and to Madonna Castiza, my most virtuous, modest, loving, and obedient wife, together with all and singular those admirable qualities with which her

noble breast is furnished ; *imprimis*, the beauties of her mind, chastity, temperance, and above all, patience, excellent in the best of music, in voice delicious, in conference wise and pleasing, of age contentful, neither too young to be apish, nor too old to be sottish, and which is the best of a wife, a most comfortable, sweet companion, which said Madonna Castiza, lying and yet being in the occupation of the said captain, to have and to hold, use, and to be acquitted of and from all former bargains, former sales, gifts, grants, surrenders, re-entries ; and furthermore, I, the said, of and for the consideration of five hundred crowns to set me aboard, before these presents, do utterly disclaim forever any estate, title, right, interest, demand, or possession of, in, or to the said Madonna Castiza, my late virtuous and unfortunate wife as also neither to touch, attempt, molest, or incumber any part or parts whatsoever, either to be named or not to be named, either hidden or unhidden, either those that boldly look abroad, or those that dare not shew their faces," etc.

MASSINGER.

Massinger's drama, "The Old Law," derives its title from the edict "that every man living to fourscore years, and woman to threescore, shall then be cut off as fruitless to the republic ; and law shall finish what nature lingers at." The justice of this enactment is gravely discussed by the lawyers in the piece, described as first and second. Cleanthes insists that the law is unjust, because it kills innocents. Number one replies that he understands conscience, but not law, and when asked if there is any "main difference," answers that the inquirer "will never be good lawyer if he understands not that." Be-

sides, he argues that it does not take the lives of the innocent ; because people cannot live to such an age and be innocent. Cleanthes evidently was a woman's rights advocate ; for he comments on the unjust discrimination between the sexes, and infers that "there was no woman in this senate, certain." Cleanthes then fees number one for advice as to some plan to evade the law ; and the counsellor is delivered of this sage opinion : —

"We say, man is not at age
Till he be one and twenty ; before, it's infancy
And adolescence ; now, by that addition,
Fourscore he cannot be till a hundred and one."

The client, not regarding the jest as a good one, demands the fee, but is told "there is no law for the restitution of fees."

Through the enforcement of this law arise many touching scenes of filial affection, and many horrible instances of filial ingratitude and marital infidelity. But it turns out that the law was only a trick to test the morals of the young people of the realm : nobody was put to death, and the supposed victims are produced at the close to confront their putative unkind survivors. . The bad sons are deprived of their inheritance, and the incontinent women are forbidden to marry for ten years. The faithful are suitably rewarded. There seems no defect of strict poetic justice, save some punishment on the counsellors for their bad law. Perhaps the poet considered the sarcasm of making them defend such an unjust enactment a sufficient retribution. The piece winds up with, —

"The good needs fear no law :
It is his safety, and the bad man's awe."

JONSON.

In Jonson's best drama, "The Fox," Voltore, an advocate, is made a most unenviable character. Volpone, the Fox, is a sensual old miser, who has accumulated a large fortune by presents from persons whom he promises to make his heirs, and among whom is the advocate. Voltore also serves the Fox in a disgraceful legal proceeding, instituted by Volpone against a woman who refuses to gratify his lust. The advocate's character is aptly described by one who says of him, "His soul moves in his fee." "This fellow, for six sols more, would plead against his Maker." The advocate's argument in court is described by the Fox's factotum, Mosca, to his master: —

"Had you heard him first
Draw it to certain heads, then aggravate,
Then use his vehement figures. I look'd still
When he would shift a shirt: and doing this
Out of pure love — no hope of gain."

The Fox feigns death, and wills all his property to Mosca, who says, when the plan is suggested, "Your advocate will turn stark dull upon it;" and the Fox replies, "It will take off his oratory's edge." When the lawyer reads the pretended will, there is a scene. Mosca, in a passage of exquisite irony, says, —

"Marry, my joy is that you need it not:
You have a gift, sir (thank your education),
Will never let you want, while there are men
And malice to breed causes. Would I had
But half the like for all my fortune, sir!
If I have any suits, as I do hope,
Things being so easy and direct, I shall not,

I will make bold with your obstreperous aid,
Conceive me, — for your fee, sir. In meantime,
You that have so much law, I know have the conscience
Not to be covetous of what is mine."

Afterward the lawyer, meeting Mosca in the street,
rails at him ; and the latter expostulates, —

"Good advocate,
Pray thee not rail nor threaten out of place thus."

But the lawyer turns the tables on the Fox by exposing
to the court the false accusation against Celia : —

"It is not passion in me, reverend fathers,
But only conscience, — conscience, my good sires,
That makes me now tell truth."

However, at the last pinch, the Fox, in disguise, and
unknown to the lawyer, whispers him that Mosca,

"the parasite,
Will'd me to tell you that his master lives ;
That you are still the man ; your hope the same ;
And this was only a jest."

Whereupon the lawyer falls down in court, and goes
through various affected spasms to appear bewitched,
and on recovering takes back all he had said against
Volpone. "It is to the praise of Jonson," says Gifford,
"that he lets slip no opportunity of showing his contempt
for the popular opinions on this head," — of witchcraft.
Some other complications ensue which it is not necessary
in this connection to unravel ; but in the end Volpone's
possessions are confiscated, and he is sent to prison.
Mosca is condemned to the galleys, and —

"Thou, Voltore, to take away the scandal
 Thou hast given all worthy men of thy profession,
 Art banished from their fellowship and our staté."

Jonson's treatment of the subject of witchcraft is shown in "The Devil is an Ass," in which Sir Paul Eitherside, a superstitious and unfeeling lawyer and justice, explains the dumb show of certain pretended demoniacs brought before him. Among other qualities that Sir Paul attributes to the Devil, is that of being "the master of players and poets too." The justice is solemn, sententious, and uninteresting, but as to his belief in witchcraft, no more credulous than Bacon and Matthew Hale.

In "The Magnetic Lady," the character of Practice, the lawyer, is described by Compass with some irreverent fun at our gown and wig: —

"A man so dedicate to his profession,
 And the preferments go along with it,
 As scarce the thundering bruit of an invasion,
 Another eighty-eight, threatening his country
 With ruin, would no more work upon him
 Than Syracusa's sack on Archimede:
 So much he loves that night-cap! the bench-gown,
 With the broad gard on the back! these show a man
 Betrothed unto the study of our laws."

To which Practice answers, —

"Which you but think the crafty impositions
 Of subtile clerk, feats of fine understanding,
 To abuse clots and clowns with."

When asked if "Practice will be of counsel against us," Compass says, —

“He is a lawyer, and must speak for his fee,
Against his father and mother, — all his kindred,
His brothers or his sisters: no exception
Lies at the common law. He must not alter
Nature for form, but go on in his path.”

Jonson seems to think it necessary to explain, that in this character he meant no disrespect to our profession; for in one of the interlocutory passages, the boy, in answer to Master Dampley, who inquires whom the poet means by certain characters of the drama, replies, “You might as well ask me what eminent lawyer by the ridiculous Master Practice, who hath rather his name invented for laughter, than any offense or injury it can stick on the reverend professors of the law; and so the wise ones will think.”

To Sir Diaphanous Silkworm, who has been assaulted, Practice recommends a resort to law: —

“That will give you damages:
Five thousand pounds for a finger I have known
Given in court; and let me pack your jury.”

Farther on, Practice says he is “a benchman, and now double reader,” — a reference to the days when readings in the Inns of Court were kept up. After seven years the lawyer was in turn to read the second time, and was then called a “double reader.” Practice is evidently of authority, for the clerk issues to him a marriage license in blank. To Compass, who asks him how to recover his wife’s portion, Practice advises, —

“Sue him at common law:
Arrest him on an action of choke-bail,
Five hundred thousand pounds; it will affright him
And all his sureties.”

Of this peculiar action Sir Diaphanous says, —

“It is a terrible action, more indeed
Than many a man is worth, and is call'd fright-bail.”

Practice gives an opinion on another point of law ;
namely, the crime of infanticide : —

“The law is plain : if it were heard to cry,
And you produce it not, he may indict
All that conceal it, of felony and murder.”

WEBSTER.

“The Devil's Law Case,” by Webster, as may be
inferred from the title, is very rich in law and lawyers.
The action is conveyed in a word : —

“O jealousy !
How violent, especially in women !
How often has it rais'd the Devil up in form of a law case !”

The first scene in point is between Crispiano, a civil
lawyer, and Sanitonella, his clerk. The latter gives us a
good idea of the lucrativeness of law practice in Spain,
by telling us that his master, “by his mere practice of
the law, has gotten, in less than half a jubilee, thirty
thousand ducats a year.” But it has been accumulated
by hard work, as nowadays. Hear the clerk's rehearsal
of these toils : —

“All the time of your collectionship
Has been a perpetual calendar ; begin first
With your melancholy study of the law,
Before you come to finger the ruddocks ; after that
The tiring importunity of clients,
To rise so early, and sit up so late :

You made yourself half ready in a dream,
And never pray'd but in your sleep. Can I think
That you have half your lungs left with crying out
For judgments and days of trial? Remember, sir,
How often have I bore you on my shoulder,
Among a shoal or swarm of reeking night-caps,
When that your worship has bespit yourself
Either with vehemency of argument
Or being out from the matter."

By "ruddocks" we understand red gold coin; "half ready" means half-dressed; "night-caps" is sarcastic for wigs. Sanitonella is a practical rogue. He insists "that no proctor in the term-time be tolerated to go to the tavern above six times i' th' forenoon: it makes their clients overtaken, and become friends sooner than they would be."

The master himself has an eye to the main chance, and deems nothing —

"like the pleasure
In taking clients' fees, and piling them
In several goodly rows before my desk,
And according to the bigness of each heap,
Which I took by a leer (for lawyers do not tell them);"
That is, judged of by a glance, without counting —

"I vail'd my cap, and gave great hope
The cause should go on their sides."
"The noise of clients at my chamber door
Was sweeter music far, in my conceit,
Than all the hunting in Europe."

Ariosto, an advocate, in Crispiano's opinion, is —

"the very miracle of a lawyer;
One that persuades men to peace, and compounds quarrels

Among his neighbors without going to law."

"Yes, and will counsel

In honest causes gratis ; never in his life

Took fee but he came and spake for't ; is a man

Of extreme practice ; and yet all his longing

Is to become a judge."

We infer from this that judicial salaries were larger then than now.

Romelio has a poor opinion of our profession. He tells Ariosto, —

"Of all men living,

You lawyers I account the only men

To confirm patience in us : your delays

Would make three parts of this little Christian world

Run out of their wits else."

Sanitonella introduces to his master, Leonora, as a client, the nature of whose business is shadowed forth in the first line : —

"Take her into your office, sir : she has that in her belly

Will dry up your ink, I can tell you.

This is the man that is your learned counsel, —

A fellow that will trowl it off with tongue.

He never goes without restorative powder

Of the lungs of fox in's pocket, and Malaga raisins

To make him long-winded."

And hands him a brief. Ariosto asks, —

"Do you call this a brief?

Here's, as I weigh them, some fourscore sheets of paper."

But Sanitonella replies, —

"We call this but a brief in our office :

The scope of the business lies in the margin."

But Ariosto likes not the odor of the suit: and Sanitonella employs Contilupo, a spruce lawyer, who, Ariosto having in anger torn up the brief, is still able to read the "foul copy" by the aid of "twenty double ducats;" inquiring, "Is not this *vivre honeste*?" is told by Sanitonella, "That's struck out, sir; and wherever you find *vivre honeste* in these papers, give it a dash, sir;" is "wont to give young clerks half fees to help him to clients." Of course he accepts the business.

The court scene is very strongly drawn. Sanitonella cautions the officers to "take special care that you let in no brachy graphy men (short-hand writers) to take notes." He is provided against a long sitting with "a lovely pudding pie, which we clerks find great relief in." Crispiano appears as a judge, but is not known to the suitors. The charge is, that Romelio is illegitimate, being really the son of Crispiano; while his mother, Leonora, is married to another. Crispiano, being thus implicated, discovers himself, descends from the bench, and surrenders his place to Ariosto, who fears

"This law business
Will leave me so small leisure to serve God
I shall serve the king the worse."

And makes a seemingly necessary explanation in accepting, —

"I do here first make protestation,
I ne'er took fee of this Romelio
For being of his counsel; which may free me,
Being now his judge, fro' the imputation
Of taking a bribe."

The cross-examination by Crispiano of the waiting-woman produced by Leonora to prove his intimacy with

her mistress, is exceedingly skilful, and humorously drawn ; but the trial is too broad, as well as too long, to be here detailed. It is sufficient to say that the accusation is completely disproved. According to the roguish clerk, —

“ Uds foot, we are spoil’d !

Why, my client’s proved an honest woman.

Well, I will put up my papers,

And send them to France as a precedent,

That they may not say yet, but for one strange .

Lawsuit, we come somewhat near them.”

Law makes a less prominent figure in “A Cure for a Cuckhold,” but the play treats of a novel and amusing question. Franckford has a suit against Compass, a sailor, for the custody of a child, the fruit of an intrigue between himself and Compass’s wife during the husband’s absence at sea, and with his attorney, Dodge, resorts to a tavern, where also come Compass and his attorney, Pettifog. The parties and attorneys talk over the suit separately. Dodge tells his client, “We shall carry it through most indubitably. You have money to go through with the business, and ne’er fear it but we’ll trounce ’em : you are the true father.” The tavern-boy asks Compass if he will have any music ; and he answers, “Music among lawyers ! here’s nothing but discord.” Pettifog tells him that “the defendant was arrested first by Lattitat in an action of trespass.” Compass says, “A lawyer told me it should have been an action of the case,” — a touch of nature which every lawyer will recognize. Pettifog thinks “Your action of the case is in that point too ticklish,” but has no doubt he will overthrow his adversary. “Sans question. The child is none of yours. What of that? I marry a widow is possessed of a ward :

shall not I have the tuition of that ward? Now, sir, you lie at a stronger ward; for *partus sequitur ventrem*, says the civil law: and if you were within compass of the four seas, as the common law goes, the child shall be yours certainly."

Compass. "There's some comfort in that yet. Oh, you attorneys in Guildhall have a fine time on't! You are in effect both judge and jury yourselves. And how you will laugh at your clients, when you sit in a tavern, and call them coxcombs, and whip up a cause, as a barber trims his customers on a Christmas Eve, — a snip, a wipe, and away!"

Pettifog. "That's ordinary, sir: you shall have the like at a *nisi prius*."

Two other clients come in to Pettifog, and stand treat, or rather, hand money ostensibly for that purpose to him, of which the lawyer says, "This is my tribute: custom is not more duly paid in the Sound of Denmark," and thus reckons up his gains: "I have sate here in this tavern but one half-hour, drunk but three pints of wine, and what with the offerings of my clients in that short time, I have got nine shillings clear, and paid all the reckoning." — "Almost a counsellor's fee," says another of the party. "And a great one, as the world goes in Guildhall," replies Pettifog; "for now our young clerks share with 'em, to help 'em to clients." Of the two last-coming clients he says, "My client that came in now sues his neighbor for kicking his dog, and using the defamatory speeches, *Come out, cuckhold's cur*. The other that came in was an informer, a precious knave." The legal party is now increased by the advent of Justice Woodroff, and a counsellor. The justice is one of the "compromisers," or

arbitrators, to whose judgment the controversy has been left; and the counsellor announces to Compass that the decision is against him, and gives him the prevailing reasons:—

“A child that’s base and illegitimate born,
 The father found, who (if the need required it)
 Secures the charge and damage of the parish,
 But the father? who charged with education
 But the father? then, by clear consequence,
 He ought, for what he pays for to enjoy.
 Come to the strength of reason, upon which
 The law is grounded: the earth brings forth,
 This ground or that, her crop of wheat or rye;
 Whether shall the seedsman enjoy the sheaf,
 Or leave it to the earth that brings it forth?
 The summer tree brings forth her natural fruit,
 Spreads her large arms: who but the lord of it
 Shall pluck the apples or command the lops?
 Or shall they sink into the root again?
 ’Tis still most clear upon the father’s part.”

But Compass retorts, “All this law I deny, and will be mine own lawyer. Is not the earth our mother? and shall not the earth have all her children again? I would see that law durst keep any of us back: she’ll have lawyers and all first, though they be none of her best children. My wife is the mother; and so much for the civil law. Now I come again, and y’ are gone at the common law.” He then adduces a striking illustration derived from the natural history of domestic animals, in which he supposes one man’s gentleman-pig to associate with another man’s lady-pig, and, in respect to their progeny, asks with great force, “Who shall keep these pigs?” This course of reasoning convinces both the justice and

the counsellor : they revoke their former opinion, and the child is adjudged to Compass.

In the Duchess of Malfi, Webster draws the character of an unjust prince and, among other things, says, —

“ Hears men’s suits

With others’ ears ; will seem to sleep o’ the bench
Only to entrap offenders in their answers ;
Dooms men to death by information,
Rewards by hearsay.

“ The law to him

Is like a foul black cobweb to a spider :
He makes it his dwelling, and a prison
To entangle those shall feed him.”

SHAKSPEARE.

The most universal genius in literature could not have failed to have something to say of law and lawyers. I presume that what he has said is so familiar to our profession as not to justify a particular review. Shakspeare’s frequent use of law-terms is so accurate that some have conjectured that he must have studied law ; and in this circumstance, the infidels who believe that his plays were written by Bacon think they find strong confirmation. Lord Campbell has written a pamphlet on the Legal Acquirements of Shakspeare, in which he considers the question whether he probably had studied law, and concludes that there is much to be urged in support of that conjecture, but that he would not blame a jury for disagreeing about it. The most celebrated law-trial scene in literature unquestionably is that in “ The Merchant of Venice.” Certainly a more utterly absurd one was never depicted. Bacon never could have brought himself to

write such nonsense. Of course we must presume that Shakspeare knew better; he simply adopted the old story: but a trained lawyer like Bacon could never have abandoned himself to do it. This trial scene has been humorously and seriously reviewed by lawyers. Mr. Esek Cowen, of Troy, N.Y., some years ago published in "The Albany Law Journal" a burlesque of this scene so clever that it should be reproduced as part of our subject. If I were given to punning, I should pronounce it a *jew d'esprit*. It is in the form of a pretended opinion of court, and runs as follows:—

"COMMISSION OF APPEALS.

"LEVI SHYLOCK, *appellant*, v. ANGELO ANTONIO, *respondent*.

"This was an appeal from the judgment of the general term of the first district, affirming the report of a referee, which report contained directions for very peculiar and unusual legal remedies. The facts are sufficiently stated in the opinion of the court.

"JOHN GRAHAM,¹ *for the appellant*.

"CHARLES S. SPENCER,¹ *for the respondent*.

"(BY THE COURT.) In order to fully understand this case, it will be necessary to refer to certain facts, not very material, perhaps, to its final determination. The defendant Antonio is an Italian merchant, doing an extensive business in the city of New York as an importer. Prior to the transactions which resulted in this suit, he had been remarkably successful,—had made much money, which he spent in a princely manner, and stood well in society,

¹ A prominent criminal lawyer of the city of New York.

in spite of a decided tendency to mental unsoundness. We say 'mental unsoundness,' though there is no direct proof on the subject ; because it seems to be conceded that he lent money to his friends without interest, which would, in most business circles, be considered evidence to warrant a commission *de lunatico*. He had a sporting friend of the same nationality, by the name of Bassanio, who, having been completely 'cleaned out' (as the vile phrase is) by a season at Saratoga, conceived a novel method of restoring his fortunes. It seems that an eccentric resident of Venango County, Penn., having made a large fortune by speculations in oil-lands, left the whole of it to his daughter, on condition that she should take for her husband the suitor who should prove most proficient in the ancient and noble game of 'Thimble Rig.' As Bassanio had been accustomed to witness this game at horse-races, he felt confident, that if he had an opportunity, he could tell in which box the 'little joker' was. But he had no money to take him to Venango County, and his acquaintance with Col. Thomas A. Scott was not sufficiently intimate to justify him in asking for a pass. In this extremity he applied to the defendant for a loan. Antonio would gladly have complied ; but just before, he had invested every dollar he could raise in contraband goods, and vessels built for running the Southern blockade. Bassanio naturally suggested a note at six months ; but the defendant was prohibited, by his partnership articles, from making or indorsing commercial paper outside of the business of the firm. The two friends then applied to the plaintiff, a gentleman of the Hebrew persuasion, doing business in Chatham Street, for a loan of three thousand dollars upon Antonio's credit. For several

reasons the plaintiff was little inclined to look upon the defendant with favor. Besides his unjustifiable habit of lending money without interest, which, as Shylock very properly observed, had a tendency to 'lower the rate of usance,' Antonio chewed tobacco freely, and expectorated with great carelessness upon all objects in his vicinity. Indeed, it appeared in evidence, without objection, that the defendant had frequently spit upon Shylock's 'Jewish gaberdine.' The court is not exactly certain as to what a 'gaberdine' is; no definition was attempted by either counsel upon the argument; but we may safely assume that it is a garment which is not improved by contact with tobacco-juice: and such incidents will go far to excuse, if they do not justify, the somewhat vindictive manner in which this suit was prosecuted. The plaintiff, however, at the time of this application, concealed his feelings, and told Antonio that he would charge him no interest, but would merely take a bond conditioned to the effect, that if the loan was not paid when due, the borrower should forfeit a pound of flesh nearest his heart. Bassanio pretended to demur; but Antonio was confident that the loan would be paid when due, and this somewhat singular business transaction was concluded as above stated. Bassanio went to Venango County, guessed the right box, and married the heiress. Antonio's fate was far different. He quarrelled with several members of Congress about the division of the expected profits of his venture, his understanding with the government was broken up, and his ships were sunk by the blockading squadron. And, when Bassanio returned from his wedding-tour, he found all Antonio's effects sold out by the sheriff, and numerous executions

returned unsatisfied. He found, too, that the plaintiff had already commenced this action to enforce the forfeiture in the bond. As soon as the cause was at issue, it took the usual course of cases in New-York City, i.e., it was referred to James H. Coleman, Esq.;¹ but that gentleman being indisposed, all parties agreed to accept as referee a young and unknown lawyer by the name of Balthazar; which arrangement was the more singular, as he does not appear to have been a relative of any of the judges.

"And just here arises one of the most curious questions in this case. It is asserted, by the counsel for the appellant, that this referee was, in fact, a *woman*; that her maiden name was Mary Jane Portia, and that she was the same oleaginous heiress whom Bassanio had just married.

"The court has been accustomed to give little weight to the assertion of the counsel since the McFarland trial; but the decision itself furnishes the strongest internal evidence that it is the work of one of that pernicious sex which 'brought sin into the world, and all our woe,' and has been bringing sinners into the world ever since, with a similar disregard of consequences. We trust that this most extraordinary precedent will never be followed, and that unsexed women will not attempt to occupy the judgment-seats of the land. Otherwise, we fear that we shall have the judgments of the courts dictated by the spirit of Demosthenes and other heathen, instead of by the 'benign and benignant' principles of the common law.

"In this case the facts were conceded by all parties; and after a tender, in open court, of three times the

¹ A standing referee under Judge Barnard in Tweed's day.

amount of the debt had been made and refused, this referee of uncertain sex proceeded to pronounce judgment. His (or her) conclusions of law were as follows : —

“ 1. That the bond was valid, and that the plaintiff was entitled to his pound of flesh.

“ 2. That he was entitled to *exactly* a pound of flesh, neither more nor less, and not to a drop of blood ; and that if he drew blood, or took a grain of flesh more or less than a pound, he would be guilty of murder.

“ 3. That under an ancient and obsolete ordinance of the city of New York, passed in the time of Peter Stuyvesant, the plaintiff was liable to capital punishment ‘for practising against the life of a Christian.’

“ 4. That he could only escape this punishment by giving half his fortune to his daughter (who had just married a Christian), and by turning Christian himself.

“ On hearing the latter portion of this decision, the plaintiff felt a considerable abatement of his enthusiasm, and inquired in a tremulous tone ‘if that was the law.’ On being assured that it was, he offered to take the amount of his bond, and discontinue without costs, to which proposition this astonishing referee replied, that the plaintiff had forfeited all claim to his money by refusing it in open court ! The plaintiff being without counsel, no stay of proceedings was obtained : and the decree of the referee was carried into effect ; the plaintiff being baptized, we presume, by the sheriff of the city and county of New York. Upon a subsequent appeal, the judgment was affirmed by the general term ; and the plaintiff appealed to this court.

“ The first conclusion of law, though apparently in favor

of the plaintiff, was utterly erroneous for two reasons: 1. It is well settled, that when a bond contains a condition that is unreasonable and absurd, it will be considered as good only for the sum actually secured by or lent on the faith of it. As in the familiar case where a party, in consideration of a sum of money, agreed to give the price of the twenty-fourth nail in a horse's shoe, at the rate of a penny for the first nail, two for the second, and so on in geometrical progression. This bond was not only unreasonable, but provided for the commission of a capital crime, and was clearly void under the principle to which I have adverted; 2. The bond was extinguished by the tender of the amount of the loan which it was given to secure. This court has explicitly decided that a tender of the debt, even after it is due, extinguishes all collateral securities. '*Kortright v. Cady*,' 21 N. Y. 343; and the tender at the trial was sufficient to cancel the bond if it ever possessed any validity.

"But if the referee's first proposition of law is sound, the second becomes a stupendous absurdity. It is a familiar rule of construction, that the right to do a certain act confers the right to the necessary incidents of that act. The referee holds that the plaintiff had a right to cut off a pound of defendant's flesh. Now, as no one can cut an exact pound of flesh to a grain, as no one can do it without drawing blood, it seems too plain for argument that the parties could have intended no such restrictions; and the court had no right to supply them. If the bond was valid, the plaintiff could have subjected himself to no penalty by simply taking what it gave him.

"We have not before us the statute referred to in the

third conclusion of the referee ; but we have great doubts whether the plaintiff, upon any reasonable construction of its terms, could be held liable for taking a bond voluntarily signed by the defendant. It does not seem to us that this was 'practising against the life' of the defendant, within the meaning of the law. But this is of no importance ; for all the proceedings of the referee, under this statute, were void for want of jurisdiction. The plaintiff was then pursuing a civil, though somewhat bloody, remedy ; and what right had the referee, without complaint, warrant, or the intervention of a grand jury, to change this plaintiff into a defendant, on a criminal charge, and herself into a criminal judge ? It would be easy to show that she has violated the constitutions of the United States and the State of New York, as well as nearly all the criminal statutes.

"The pretence that the plaintiff had forfeited his debt by the refusal of the tender was extremely shallow. Nothing is better settled than that a tender does not extinguish the *debt*, but only things collateral thereto, such as interest. 'Kortright *v.* Cady,' above cited. The bias of this female referee was plainly shown by the direction that the plaintiff should pay half his fortune to his daughter, who had run away and married against the wishes of her venerable parent, *and who was not even a party to the action*. Such encouragement to young women, to disregard the parental commands, is very pretty and romantic ; but it cannot receive the countenance of this court. The referee had no authority to make such a disposition of the defendant's property, and it must be restored to him. But the climax of usurpation and cruelty was to come. The plaintiff was not

only required to despoil himself for his daughter's benefit, but to embrace Christianity for his own.

"We are not going to argue this question upon general principles. It is certainly difficult for us to see how any benefit could arise to the Christian church if all the criminals in the land were compelled to adopt that religion at — if the expression is admissible — the point of the halter. We do not mean to deny the power of the legislature to prescribe the union of the criminal with some religious body as a penalty for crime. If coupled with the obligation of hearing two average sermons a week, we are not prepared to say that the punishment would not be exemplary. We place our decision entirely upon the ground, that the legislature have not authorized the infliction of such a penalty; and we are unwilling that the referee should add the functions of that body to her self-appointed duties as civil judge, and court of oyer and terminer: and here we pause for a moment to set ourselves right before the public. Absorbed in our arduous duties, we can pay but little attention to general literature: but we read the public prints; and we cannot ignore the fact, that this case has created much interest in the minds of the community. If we are rightly informed, the facts have formed the basis of a powerful drama, which has lately been placed upon the stage: and the conduct of the referee has been loudly applauded by audiences unlearned in the law, who doubtless saw in her the embodiment of the classical idea of justice; namely, a woman with her eyes completely blinded.

"To prevent any misunderstanding, therefore, we assert most positively that our decision upon this point is not influenced by the feeling which seems to have actuated

one of the witnesses, who objected to the conversion of the daughter of the plaintiff, Miss Jessica Shylock, upon the ground that 'the making of so many new Christians would raise the price of pork.' This court is of the opinion, that in moderation, a pork diet is both healthful and invigorating, and that sausages, when their origin is not involved in too much obscurity, are a 'dish fit for a judge.'

"But if we know our own hearts, we would not allow a slight advance in the price of a favorite esculent to stand in the way of the genuine conversion of the humblest Hebrew in the land. And in this we believe that we speak the sentiment of the American people, even outside of Chicago and Cincinnati; while in those two cities, the fact that such a fulfilment of Scripture would tend to raise the price of pork, would doubtless be considered the strongest possible reason for the conversion of the whole world. To their citizens no two events could appear more desirable, than that 'the knowledge of the Lord should cover the earth as the waters cover the sea,' and that 'prime mess' should go up a dollar a barrel. Personal motives therefore have nothing whatever to do with our decision. It is the law of the land, and our own feelings of duty that call upon us to relieve the plaintiff from his unfortunate position. We have thus disposed of the questions raised by this appeal, but we cannot close without a word of warning to Mrs. Bassanio. The bench of justice is a hard seat, as many of us can feelingly certify, very different from the rocking-chairs in which the beauty and fashion of our land are wont to disport themselves; and if in the tender and appropriate duties of wife and matron she shall forget

the spirit of recklessness and intrigue which led her to occupy the position of a referee in this case, we will gladly overlook the past. But if forgetting her duties to her husband and family she shall hereafter occupy the platform, and clamor for the suffrage with the Woodhulls and Cady Stantons of the day, we shall make it our business to see if there is not some provision of the common or statute law under which she may be punished for her audacious usurpation, — *verbum sap.* The result of the whole matter is this: We cannot compel restitution of the money paid by the plaintiff to his daughter, as she is not a party to the action. But the entire decree of the referee must be reversed, the plaintiff must have judgment for his three thousand dollars against the defendant, with interest from the date of the bond (as there is no proof that the tender has been kept good); and he must be permitted, if he so elects, to relapse into Judaism, ‘subject only to the Constitution of the United States.’ All the judges concurring, ordered accordingly.”

Professor von Ihring, an eminent German jurist, in his eloquent book, “The Struggle for Law,” takes a more serious view of Shylock’s wrongs, and discourses as follows: —

“‘I crave the law.’ In these four words the poet has described the relation of law in the subjective to law in the objective sense of the term, and the meaning of the struggle for law, in a manner better than any philosopher of the law could have done it. These four words change Shylock’s claim into a question of the law of Venice. To what mighty giant dimensions does not the weak man grow when he speaks these words! It is no longer the

Jew demanding his pound of flesh : it is the law of Venice itself knocking at the door of justice, for his rights and the law of Venice are one and the same ; they both stand or fall together. And when he finally succumbs under the weight of the judge's decision, who wipes out his rights by a shocking piece of pleasantry ; when we see him pursued by bitter scorn, bowed, broken, tottering on his way, — who can help feeling that in him the law of Venice is humbled ? that it is not the Jew, Shylock, who moves painfully away, but the typical figure of the Jew in the Middle Ages, that pariah of society who cried in vain for justice ? His fate is eminently tragic, not because his rights are denied him, but because he, a Jew of the Middle Ages, has faith in the law, — we might say, just as if he were a Christian, — a faith in the law, firm as a rock which nothing can shake, and which the judge himself feels, until the catastrophe breaks upon him like a thunder-clap, dispels the illusion, and teaches him that he is only the despised mediæval Jew, to whom justice is done by defrauding him." "The jurist can only say that the bond was in itself null and void, because its provisions were contrary to good morals." But failing to take this ground, "it was wretched subterfuge, a miserable piece of pettifoggery, to deny the right to shed blood in cutting the pound of flesh. Just as well might the judge deny to the person whose right to an easement he acknowledged, the right to leave footprints on the land, because this was not expressly stipulated for in the grant."

Contemporaneously, an English dramatic critic said, on the same topic, —

"There is something grandly pathetic in the fixed claim of the Jew, as he stands in the judgment-hall, a

figure of Fate inexorably persistent, demanding the penalty of his bond ; he is no mere usurer punishing a bankrupt debtor ; if he avenges private injuries, he also represents a nation seeking atonement for centuries of wrong. By what a technical quibble is he denied justice, and tricked out of both penalty and principal ! What a pitiful cur is Gratiano to yelp at his heels ! One's sympathies follow the baffled and persecuted Jew as he slowly withdraws from the court : it is impossible to feel much interested in the release from peril of that very dull personage, Antonio."

Shakspeare, in his drama of "King John," Act I., Scene 1, gives us a trial before the Aula Regis ; the king himself being present in person, Fitz-Peter being chief justiciar, in a "legitimacy case," as it was called, which involved the legitimacy of one who was said to be the illegitimate son of Richard Cœur de Lion. In that trial the doctrine *pater est quem nuptias demonstrant*, subject, however, to the exception of the absence of the husband *extra quatuor maria*, was contended for : and Lady Faulconbridge having remained in England while her husband was employed in Germany, the defendant was found illegitimate ; much stress being given to the testimony of Dowager Queen Eleanor, who declared that the defendant had a "trick of Cœur de Lion's face," and that "she read in his composition the token of her son, and she was sure that she was his grandame." So, by the advice of Lord Chief Justice Fitz-Peter, judgment was given for the plaintiff ; while the defendant, kneeling before the king, rose Sir Richard Plantagenet.

SHIRLEY

has a "Moral dressed in dramatic ornament," entitled "Honor and Mammon." These names describe two female characters, representing honor and riches. Phantasm, servant of Mammon, proposes to Traverse, a lawyer, an introduction to his mistress, with a design of making a match between them, telling him, "I have no mind the city would your client, sir, should break his back with burden of his gold." A sort of legal love-scene ensues between the lady and the lawyer: —

Traverse. . . . I can court you
In a more legal way, and in the name
Of love and law, arrest you, thus. [*Embraces her.*

Mammon. Arrest me?

Trav. And hold you fast, imprisoned in my arms,
Without or bail or mainprize.

Mam. This does well.

Trav. I can do better yet, and put in such
A declaration, madam, as shall startle
Your merriest blood.

Mam. I may put in my answer.

Trav. Then comes my replication, to which
You may rejoin. — *Curat lex!*
Shall we join issue presently?"

In view of his approaching alliance, the lawyer says, —

"Since fame spread my intended marriage
With Lady Mammon, methinks the people
Look on me with another face of fear
And admiration: in my thoughts I see
Myself already in the throne of law."

To make sure of the lady, he confines her to his house.
Just then a doctor comes, informing Traverse that he is

attending Alworthy, a sick scholar, in love with Honoria, and her guest, and, describing the latter lady in glowing terms, wonders that the lawyer has never sought her, saying, —

“Men that are eminent in law are wont
To be ambitious of Honour.

Trav. It is a maxim in our politics,
A judge destroys a mighty practicer:
When they grow rich and lazy, they are rife
For Honour.”

At length the lawyer is so inflamed by the doctor's description, that he consents to accompany him, disguised as a physician, to the lady's house, and once there, is so much pleased with her, that he craves possession of her person, and offers, if the doctor will advocate his claims, to give him gold, and do all his law business for nothing. The doctor thereupon says, —

“I now suspect the lawyer is short-liv'd:
Men of his robe are seldom guilty of
These restitutions.”

Traverse, pretending that Alworthy is dead, gets Honoria's person in his possession, and proposes to make her his wife, and Mammon his concubine. But Mammon escapes: and Honoria, resisting all the lawyer's violence, and proffers of money, is finally released by Conquest, who himself vainly tries to prevail on her to become his, and then to induce Traverse to kill Alworthy; the lawyer resists, and is rewarded with the friendship of the lady and her lover. The allegory is too apparent to need explanation.

In “Chabot” there is some fine argumentation on the

part of an advocate employed to impeach the chancellor on account of his corrupt and unjust prosecution of the admiral Chabot. He starts off, "It hath been said, and will be said again, and may truly be justified, *omnia ex lite fieri*. It was the position of philosophers, and now proved by a more philosophical sect, the lawyers, that *omnia ex lite fiant*, we are all made by law—made, I say, and worthily, if we be just; if we be unjust, marr'd: though in marring some there is necessity of making others; for if one fall by the law, ten to one but another is made by the execution of the law, since the corruption of one must conclude the generation of another, though not always in the same profession: the corruption of an apothecary may be the generation of a doctor of physic; the corruption of an alderman may be the generation of a country justice," etc. The treasurer interrupts him, and beseeches him to "leave all digressions, and speak of the chancellor." He then abuses the chancellor most roundly, even commenting unfavorably on his personal appearance. The treasurer interrupts him again, saying, "Your tongue was guilty of no such character when he sat judge upon the admiral,—a pious, incorrupt man, a faithful and fortunate servant to his king; and one of the greatest honors that ever the admiral received was, that he had so noble and just a judge: this must imply a strange volubility in your tongue or conscience." To this the lawyer replies in the following masterpiece of sophistry: "He was then a judge, and in *cathedra*, in which he could not err; it may be your lordships' cases; out of the chair and seat of justice he hath his frailties, is loosed, and exposed to the conditions of other human natures: so every judge, your lordships are not ignorant,

hath a kind of privilege while he is in his state, office, and being; and although he may, *quoad se*, internally and privately, be guilty of bribery of justice, yet *quoad nos*, and in public, he is an upright and innocent judge. We are to take no notice — nay, we deserved to suffer, if we should detect or stain him; for in that we disparage the office, which is the king's, and may be our own: but once removed from his place by just dishonor of the king, he is no more a judge, but a common person, whom the law takes hold on; and we are then to forget what he hath been, and without partiality to strip and lay him open to the world, a counterfeit and corrupt judge," etc.

BEAUMONT AND FLETCHER.

The legal profession and Frenchmen were held up to scorn in Beaumont and Fletcher's comedy, entitled "The Little French Lawyer," in which, strange to say, the lawyer is by no means the principal personage, and is not closely connected with the plot. The character of La Writ, the lawyer, is ascribed by several editors to Beaumont's pen. La Writ is a fussy, busy, choleric, mean-spirited fellow, who, by an accidental success in a duel forced on him by a ruffling gallant, is filled with the idea that he is a man of spirit, and courts strife until his affected bravery is cudgelled out of him. He makes his first appearance in a sort of general answer to a crowd of clients: —

"I understand your causes, —
Yours about corn, yours about pins and glasses —
Will you make me mad? have I not all the parcels?
And his petition, too, about bell-founding?
Send in your witnesses — What will you have me do?

Will you have me break my heart? My brains are melted!
 And tell your master, as I am a gentleman,
 His cause shall be the first. Commend me to your mistress,
 And tell her, if there be an extraordinary feather,
 And tall enough for her — I shall despatch you too,
 I know your cause, for transporting of farthingales:
 Trouble me no more. I say again to you,
 No more vexation! Bid my wife send me some puddings;
 I have a cause to run through requires puddings;
 Puddings enough. Farewell."

That it was the fashion in those days for attorneys to carry bags, is evidenced by the fact that in the duel La Writ's life is saved by his bag, which he hangs in front of him. His antagonist loses his sword, and La Writ triumphs, — an example of nonsuit applied to the duel. He takes this success so kindly that he becomes intoxicated, sings lewd songs, asks for "a wench or two," says he "hates a coward," — a reminder of Falstaff's "a plague o' all cowards, say I." But while he is winning glory in this unaccustomed field, his causes go by default; and he flings away his bag, with "Avaunt, thou buckram budget of petitions! Thou spital of lame causes!" He challenges the president-judge for dismissing his causes, and when told that he is no swordsman, says, "Let him learn: time, that trains chickens up, will teach him quickly." The judge, on receiving the challenge from this "wrangling advocate," this "little figent thing," this "notable talking knave," pleads his old age as an excuse for not meeting him in person, and deposes his kinsman to fight in his place. The kinsman Sampson appears; and the seconds, by preconcert, strip both combatants to the skin for the purpose of discover-

ing any concealed armor, and then run away with their clothing and their swords. After a noisy combat of words, in which the shivering La Writ proposes "to fight at buffets," which Sampson scoffs at, — "My lord, mine uncle's cause depend on boxes!" — the two fall in with the judge and his friends; and La Writ is beaten by one of the latter, who says, —

"Nay, never look: your lawyer's pate is broken,
And your litigious blood about your ears, sirrah.
Why do you fight and snarl?

La Writ. I was possessed.

Champernel. I'll dispossess you. [Beats him.]

After promising to "fall close to his trade again, and leave brawling," and asking the judge's forgiveness, he is permitted to depart, "an advocate new-vamp'd." After this La Writ is as meek as Katharina after her taming by Petruchio, and gives Sampson and his clients as good advice as Katharina her friends. He dissuades Sampson from revenge, saying, —

"I find I am wiser than a justice of peace now:
Give me the wisdom that's beaten into a man!
That sticks still by him.
Go, my son Sampson, I have now begot thee,
I'll send thee causes; speak to thy lord, and live,
And lay my share by; go, and live in peace;
Put on new suits, and show fit for thy place;
That man neglects his living is an ass.

Come cheerly, boys, about our business!
Now welcome tongue again; hang swords!"

In "The Widow," Martino, clerk of Brandino, the justice, gives a warrant to a suitor, with, —

"Nay, look upon 't, and spare not: every one cannot

get that kind of warrant from me, signior. Do you see this prick i' the bottom? it betokens power and speed; it is a privy mark that runs betwixt the constables and my master: those that cannot read, when they see this, know 'tis for lechery or murder; and this being away, the warrant comes gelded and insufficient. . . . Look you, all these are *nihils*: they want the punction."

Much of "The Spanish Curate" seems designed to "crucify the lawyer." In this admirable comedy, the character of Bartolus, the lawyer and one of the principal personages, and the standing of lawyers as evidenced by the luxurious habits of their wives, are strikingly and succinctly exhibited in the opening speeches of his handsome spouse, Amaranta:—

"You know your own disease, distrust and jealousy.

.

You are too covetous:

If that be rank'd a virtue, you have a rich one.
Set me, like other lawyers' wives, off handsomely,
Attended as I ought; and as they have it,
My coach, my people, and my handsome women,
My will in honest things."

From another speech of Bartolus, it appears that one of the learned professions brought grist to the lawyer's mill, which, in modern times, does not except indirectly:—

"'Tis some honest client,

Rich and litigious, the curate has brought to me."

But the curate brings instead a law-student in the person of Leandro, a gallant disguised, who is in love with the beautiful Amaranta, and, as a means to prosecute his suit, proposes to become an inmate of Bartolus's house

and office. It would be pleasing to the profession to meet a law-student of equal ability and willingness to pay nowadays ; for this one offered twenty ducats a month for the privilege, besides three hundred down, and to "defray his diet." Of course, he was accepted. Diego, the sexton, who accompanies him, bids him adieu with —

"Take a good heart : and when you are a cunning lawyer,
I'll sell my bells ; and you shall prove it lawful."

Amaranta's suspicions are aroused by the liberal payments which her husband tells her the student has made : and the student serenades her in some verses, which she says "are no law ; they sound too sweetly." Don Henrique employs Bartolus in a dishonest cause, upon which hinges the other branch of the plot. Bartolus scruples not : "We surgeons of the law do desperate cures ; good fees beget good causes ; the prerogative of the crowns will carry the matter ; the assistant sits to-morrow, and he's your friend : your moneyed men love naturally ; and as your loves are clear, so are your causes. Hang the penurious ! their causes, like their purses, have poor issues." But he "must have witnesses enough and ready — substantial, fearless souls — that will swear suddenly — that will swear any thing ; for variety, they may swear truth, else 'tis not much look'd after." He then advises his client to "see" the judge, and dismisses him with "go, and believe i' the law." Before they come into court, the defendant assails Bartolus with foul language, and insinuates that he "would plead a needy client's cause for a starv'd hen, or half a little loin of veal, though fly-blown." Bartolus's opening speech in court is quite in the modern vein : —

“If I stood here
 To plead in the defence of an ill man,
 Most equal judge, or to accuse the innocent
 (To both which I profess myself a stranger),
 It would be requisite I should deck my language
 With tropes and figures, and all flourishes
 That grace a rhetorician: 'tis confess'd
 Adulterate metals need the goldsmith's art
 To set 'em off; what in itself is perfect
 Contemns a borrowed gloss.”

As a matter of course, the court is with Bartolus and his client. On another occasion Bartolus says, —

“I have been atoning two most wrangling neighbors :
 They had no money, therefore I made even.”

But Leandro finding scant opportunities to court Amara, his friends, the curate and the sexton, enter into a plot to entice Bartolus from home. Diego feigns mortal sickness, and sends Lopez for Bartolus to draw his will. Then ensues a most amusing scene. It is represented to Bartolus that Diego is very rich, and after making sundry bequests, intends most of his estate for the covetous lawyer. Diego's attendants give him drink to sustain his strength; and he, becoming tipsy, makes the most extravagant and absurd provisions for all sorts of strange objects: and the lawyer is in an agony at seeing his prospects dissipated. After spinning out this will as long as possible, the conspirators confess that they have been fooling Bartolus. He raves; and Diego “finds this cataplasm of a well-cozened lawyer, laid to his stomach, lenifies his fever.” In the mean time, the handsome wife and the law-student are improving the opportunity at home, and in a pretended attendance at church. On

Bartolus's return he rages horribly, but is quieted by Lopez's mention of the Inquisition as a terror to those who deny their wives the privilege of church. He pretends to be reconciled, and invites the conspirators to breakfast. They attend: he deprives them of their weapons, surrounds them with officers, and instead of edibles, puts in one dish "an execution for a thousand ducats" against the guest; in another, "a capias from his surgeon and his silk man;" in another, "a strong citation;" and in another, "a warrant to appear before the judges." Out of this mess they are rescued by a *deus ex machina*, and in the end all parties are reconciled.

In "A Wife for a Month," a "Lawyer, Physician, Captain, and Cutpurse pass over the stage;" and Tony, a fool, in his remarks to Podrano concerning the various "suitors to the widow lady," deals out hard measure to our profession, in respect to our gallantry toward the fair sex:—

"Podrano. Why, these are rascals!

Tony. They were meant to be so:
Does thy master deserve better kindred?

Pod. There's an old lawyer,
Trimm'd up like a galley-foist: what would he do with her?

Tony. As usurers do with their gold: he would look on
her,

And read her over once a day, like a hard report,
Feed his dull eye, and keep his fingers itching;
For any thing else she may appeal to a parliament:
Subpœnas and *postestas* have spoil'd his codpiece."

When the suitors present themselves and urge their claims, the lawyer says, "I am a lawyer: I can make her a jointure of any man's land in Naples; and she

shall keep it too : I have a trick for it." To which Tony answers, —

"Canst thou make her a jointure of thine honesty,
Or thy ability, thou lewd abridgement?
Those are nonsuited, and flung o'er the bar."

When, to test their sincerity, it is inquired of the suitors which of them will "dare take her for one month, and then die?" the lawyer excuses himself, because

"This is like to be a year of great dissention
Among good people, and I dare not lose it:
There will be money got."

RACINE.

Closely modelled, in several scenes, upon "The Wasps" of Aristophanes, but of more intelligible, because of more modern, interest, is "Les Plaideurs" of Racine. We have, as *dramatis personæ*, Dandin, a judge, fond of exercising his powers; his son, Léandre, a gay youth, to whom the study of the law, for which his father designs him, is irksome; L'Intimé, the judge's secretary; Petit Jean, the house-porter, illiterate; and the Prompter, who helps the advocate, Petit Jean, in the trial scene; also Chicaneau, a citizen, and La Comtesse, both litigious. Léandre and Dandin make their first appearance in a dialogue, in which the old man expostulates with his son on account of his dissolute course, and reproaches him for despising the law. The hereditary pride of the old French judge is strikingly illustrated: —

"Money is not earned so fast in my dominion.
Each of thy fine ribbons cost me 'n opinion."

My gown makes you ashamed ! And you the son of a judge !
Should'st act the gentleman ? O Dandin ! that's all fudge !
See, in my dressing-room and chamber, looking down,
The portraits of the Dandins : all these have worn the gown.
It is a good profession. Compare, — that price with this, —
The New-Year's gifts of a good judge and those of a mar-
quis.

Remark what we shall be at th' end of next December, —
What's then your gentleman ? A post in th' ante-chamber."

The son tries to convince the father that his health demands repose and retirement, and to induce him to stay at home, and temporarily give up business. The old gentleman being indisposed to accede, the son threatens restraint. The judge says that life to him, without the exercise of his official duties, is a punishment. The son tells him he can set up a domestic court. At that moment the porter opportunely rushes in, announcing that the house-dog, Citron, has carried off and devoured a capon. The judge seizes on the idea, orders the arraignment of the offender, and assigns the porter to the prosecution, and the secretary to the defence. The trial then goes on, with the aid of the Prompter ; the advocates having first been crammed for their respective parts. I give in another place a translation in full of this admirable scene, in which the tedious prolixity and irrelevancy of the advocates, and their oratorical affectations, with the *ad captandum* argument of presenting the prisoner's family in court, which even nowadays is so effective when the action is against a railroad, and the relatives are women in weeds, are drawn in a masterly manner.

In the last scene, our author depicts the indifference

with which courts had grown to regard the torture of litigants upon the rack, or "putting the question," as it was termed : —

"*Dandin*. Have you, then, never seen a party put to torture ?

Isabelle. No, and believe I never would for my salvation.

Dandin. I wish you'd gratify for this your inclination.

Isabelle. Oh ! when th' unhappy suffer, can any one stand by ?

Dandin. Why, to fill an hour or two, it answers passably."

This, from a magistrate who was so overcome at the sight of the prisoner's orphaned family, is pretty strong satire, but not extravagant, as observation shows. In a dialogue between Chicaneau and La Comtesse, the former gives the following account of his experience in litigation : —

Here are the facts. Fifteen or twenty years, an ass
Over my meadow had accustomed been to pass
And there disport himself, by which much waste he made ;
For which before the village judge my plaint I laid.
The ass I attach. An appraiser's nominated :
At trusses two of hay the waste is estimated.
In short, with this award, after a year, they fling
Me empty out of court. And then an appeal I bring.
Now, while th' appeal in court was sleeping at its ease, —
Remark particularly, madame, if you please, —
My lawyer, Drolichon, — no fool, — on my petition,
Obtained by bribery a premature decision ;
And thus I gain my cause. On that, what comes to pass ?
My opponent sly resists the *scire facias*.
But while procedure on procedure thickens,
My adversary turns into my field his chickens.

To ascertain, unto the court it then seemed meet,
 How much of grass one chicken in one day can eat.
 Issue at last is joined. In fine, when every thing
 In that condition stands, the cause, they say, they'll bring
 To hearing, April fifteenth or sixteenth, 'fifty-six.
 I write fresh score. I put in evidence, and mix
 Plaints, pleas, inspections, compulsory inquisitions,
 Reports of experts, transfers, three mesne decisions,
 Fresh facts and grievances, reports and stipulations;
 I swear to prove all false, get royal declarations:
 Fourteen appointments, thirty writs, six allegations,
 Productions six and twenty, twenty just'fications,
 Judgment in short. My cause is swallowed in expense
 Amounting to about five or six thousand francs.
 Call you this doing right? Is this the way of courts?
 After fifteen or twenty years! There's no resource
 For me left open but petition civil.

The countess is also an old hand. She has been in law thirty years or more. Chicaneau says, "That's not much," and asks how old she is. "Sixty," she replies. But most of her suits are finished. She has on hand only four or five little affairs, — one against her husband, and others against her father and her children. She has endeavored to live honestly, but to live without litigation cannot content her. She is no compromiser: she will have all or nothing, and will sell her chemise if necessary.

The accounts of the origin of this, Racine's only comedy, vary materially. One account is, that a troublesome and disastrous lawsuit, in which he was the losing party, was the occasion of it. According to another and rather apocryphal account, it was invented and written at a tavern supper, at which were present Racine, Chapelle, Boileau, La Fontaine, Furetière, Cavois, and Brilhac, a

counsellor of parliament. One proposed that they write a satire, each furnishing a line in turn. When it came Brilhac's turn, he was not equal to the poetical emergency, and proposed that they write a comedy on law and lawyers instead; he furnishing the characters from life, and the rest of them the verses. So, on this hint, Furetière formed the plot; Racine, Chapelle, and Boileau made the verses; and Cavois and the rest furnished the wit.

MOLIERE.

The great comedist of France entertained the same idea of smoothing the asperities of the law by the charms of music and poetry. In his play entitled "*Monsieur de Pourceaugnac, or Squire Lubberly*," the hero, an advocate of Limoges, becomes a prey to all sorts of practical jokes, and, among other things, is threatened with a prosecution for bigamy. Sbrigani, the engineer of all the mischiefs against the simple-minded squire, tells him, "In this country justice is as rigorous as the Devil against that sort of crime."

"*Lubberly*. Ay! but though there should be an Information, Citation, Decree, and Judgment obtained by Surprise, Default, and Contumacy, I've a way, by disputing the Jurisdiction of the Court, to gain Time, and bring about the Means of invalidating the Prosecution.

Sbrigani. Why, this is talking of it in all the terms! and 'tis plain that you are of the profession, sir.

Lub. I? Not at all: I—I am a gentleman.

Sbri. Certainly, to talk thus, you must have studied the practice.

Lub. No: it's nothing but common sense; which

makes me conclude I shall always be admitted to justify myself by facts, and that I cannot be condemned upon a simple accusation, without a re-examination, and a confrontation with the parties.

Sbri. This is finer still.

Lub. These words come from me without my knowledge.

Sbri. Methinks the common sense of a gentleman may go so far as to conceive what is right and the order of justice, but not to know the very terms of quibbling.

Lub. These are some words I have remembered by reading romances."

Would that I could find these romances ! They conclude to seek legal advice ; and Sbrigani offers to conduct him to a couple of very able men, but warns him not to be surprised at their manner of speaking : "They have contracted at the bar a certain habit of declaiming, which appears like singing ; and you'll take all they say to you for music."

Then ensues the scene with the lawyers. First counsellor, drawing out his words, —

" In case of Po-li-ga-my,
Hanging's what the laws decree."

Second counsellor, speaking very fast, —

"What you've done
Is clear and plain ;
And in that case
'Tis very full
What the law says.
Consult our authors,
Legislators, and glossators,

Justinian, Papinian,
 Ulpian, Tribonian,
 Fernand, Rebuffi, John Imolus,
 Paul, Castro, Julian, Bartolus,
 Jason, Alciat, and Cujas,
 That able man, you'll find they say,
 In th' case of Poligamy,
 Hanging the laws decree."

Second counsellor sings, —

"All people that are civilized
 And well advised,
 French, English, Hollanders,
 Danes, Swedes, and Polanders,
 Flemings, Spanish, Portuguese,
 Italians, Germans, — all of these,
 Herein you'll find
 Are of a mind.
 In the case of Poligamy
 Hanging the laws decree."

First counsellor sings, —

"In the case of Poligamy,
 Hanging the laws decree."

This would be a good tune for our government to sing to the Mormons.

I think we lawyers ought to be grateful that Molière did not write about our profession so much as he did about the physicians. The following, from "*Le Malade Imaginaire*," will sufficiently explain my reason for thinking so. Argan desires to will his property to his wife; but Bonnefoy, the notary, tells him that cannot be done. "Custom is against it. If you were in a country of

statute law, it might be done : but at Paris, and in countries for the most part governed by custom, 'tis what can't be ; and the disposition would be null. All the advantage that a man and woman, joined by wedlock, can give each to the other, is by mutual gift during life. Moreover, there must be no children, either of the two conjuncts or of one of them, at the decease of the first that dies.

Argan. Then, 'tis a very impertinent custom that a husband can't leave any thing to a wife, by whom he's tenderly beloved, and who takes so much care of him. I should desire to consult my counsellor, to see what I could do.

Bonnefoy. 'Tis not to counsel that you must apply ; for they are commonly severe in these points, and imagine it a great crime to dispose of any thing contrary to law. They are difficult people, and are ignorant of the by-ways of conscience. There are other persons to consult who are much fitter to accommodate you ; who have expedients of passing gently over the law, and of making that just which is not allowed ; who know how to smooth the difficulties of an affair, and to find means of eluding custom by some indirect advantage. Without that, where should we always be ? There must be a facility in things : otherwise we should do nothing, and I would not give a sou for our business."

Argan then asks how he can give his estate to his wife, and deprive his children of it. Bonnefoy replies, " You must secretly choose an intimate friend of your wife's, to whom you may bequeath, in due form by your will, all that you can ; and this friend shall afterward give up all to her. You may further sign a great many bonds without

suspicion, payable to several creditors, who shall lend their names to your wife, and shall put into her hands a declaration that what they had done in it was only to serve her. You may likewise, in your lifetime, put into her hands ready money or bills which you may have payable to the bearer."

In "*L'École des Femmes*" our poet explains the law of jointures and settlements, through the mouth of a notary: "The law says, the husband that is to be shall settle upon the wife that is to be the third part of her portion; but the law signifies nothing at all: you may do a great deal more than that if you've a mind to. As for the presents to be made, let them agree together. I say, the husband that is to be may jointure the wife that is to be just as he thinks fit. He may give her so much, and more, if he loves her greatly, and is desirous to oblige her, and that by way of jointure or settlement, as they call it, to be lost, and go away entirely to the right heirs of the wife that is to be, upon her decease; or else, according to the statute, as people have a mind; or as a gift, by deed in form, which may be made either single or mutual. Wherefore do you shrug? Talk I like a fool, or don't I understand the manner of a contract? Who is it can teach me? Nobody, I presume. Don't I know, that when they are married, they have in law an equal right to all movables, moneys, immovables, and acquisitions, unless they give it up by an act of renunciation? Don't I know that a third part of the portion of the wife that is to be becomes in common," etc.

WYCHERLEY.

As might be expected from the dissolute manners of those times, law and lawyers make but a small figure in the dramatists of the Restoration. In "The Plain Dealer," however, we find some amusing hits at the lawyers, and one very amusing character, "Widow Blackacre, a petulant, litigious widow, always in law." • Scene 1 of Act III. is laid in Westminster Hall, where Manly and Freeman enter : —

"*Manly.* I hate this place worse than a man who has inherited a chancery suit. I wish I were out on't again.

Freeman. Why, you need not be afraid of this place ; for a man without money needs no more fear a crowd of lawyers than a crowd of pickpockets.

Man. This the reverend of the law would have thought the palace or residence of Justice ; but if it be, she lives here with the state of a Turkish emperor rarely seen, and besieged, rather than defended, by her numerous blackguard here."

The widow enters in a crowd of half a dozen lawyers : —

"*Widow.* Offer me a reference ! you saucy companion, you ! D'ye know who ye speak to ? Art thou a solicitor in chancery, and offer me a reference ? Mr. Sergeant Plodden, here's a fellow has the impudence to offer me a reference !

Sergeant Plodden. Who's that has the impudence to offer a reference within these walls ?"

The widow says to Mr. Quaint, " Pray, go talk a great deal in chancery ; let your words be easy and your

sense hard ; my cause requires it ; branch it bravely, and deck my cause with flowers, that the snake may lie hidden. Go, go, and be sure you remember the decree of my Lord Chancellor, *Tricesimo quart* of the queen.

Quaint. I will, as I see cause, extenuate or exemplify matters of fact ; baffle truth with impudence ; answer exceptions with questions, though never so impertinent ; for reasons give 'em words ; for law and equity, tropes and figures ; and so relax and enervate the sinews of their argument with the oil of my eloquence. But when my lungs can reason no longer, and not being able to say any thing more for our cause, say every thing of our adversary."

On espying another lawyer, the widow exclaims, "Is not that Mr. What-d'ye-call-him, that goes there, he that offered to sell me a suit in chancery for five hundred pounds, for a hundred down, and only paying the clerk's fees?" Again, Manly complains that "a lawyer talked peremptorily and saucily to me, and as good as gave me the lie ;" to which Freeman replies, "They do it so often to one another at the bar, that they make no bones on't elsewhere."

Major Oldfox, given to scribbling, and in love with the widow, says to her, "Here's a poem, in blank verse, which I think a handsome declaration of one's passion ;" to which the widow answers, "Oh ! if you talk of declarations, I'll show you one of the prettiest penned things, which I mended too, myself, you must know.

Old. Nay, lady, if you have used yourself so much to the reading harsh law, that you hate smooth poetry, here is a character for you of—

Wid. A character ! Nay, then I'll show you my bill

of chancery here, that gives you such a character of my adversary, makes him as black —

Old. Pshaw! Away, away, lady! But, if you think the character too long, here is an epigram, not above twenty lines, upon a cruel lady, who decreed her servant should hang himself, to demonstrate his passion.

Wid. Decreed! If you talk of decreeing, I have such a decree here, drawn by the finest clerk —

Old. O lady, lady! all interruption and no sense between us, as if we were lawyers at the bar! but I had forgot Apollo and Littleton never lodge in a head together."

Which last sentiment is agreed with by Pope, who says, —

"How sweet an Ovid, Murray was our boast!
How many Martials were in Pulteney lost!"

This dialogue winds up with an offer on the part of the major to read a letter about "the coffee-man's case." The widow answers, "Nay, if your letter have a case in't, 'tis something; but first, I'll read you a letter of mine to a friend in the country, called a letter of attorney." Finally, when one proposes to marry her, she replies, "Oh, stay, sir! Can you be so cruel as to bring me under Covert-Baron again, and put it out of my power to sue in my own name? Matrimony to a woman is worse than excommunication, in depriving her of the benefit of the law."

FARQUHAR,

In "The Twin Rivals," depicts a vulgar, rascally attorney, Subtleman; but I find only one sentiment in his speeches

worthy of quotation. He is endeavoring to induce another to swear to a false will; and when it is objected to as against conscience, he asks, "But, if we make it lawful, what should you fear? We now think nothing against conscience, till the cause be thrown out of court."

CONGREVE,

in "Love for Love," makes Valentine, who assumes madness, inquire, "Why does that lawyer wear black? Does he carry his conscience without-side? Lawyer, dost thou know me?"

Buckram. O Lord! what must I say? Yes, sir.

Valentine. Thou liest, for I am truth. 'Tis hard I cannot get a livelihood amongst you. I have been sworn out of Westminster Hall the first day of every term,—let me see,—no matter how long. But I'll tell you one thing: it's a question that would puzzle an arithmetician, if you should ask him, whether the Bible saves more souls in Westminster Abbey, or damns more in Westminster Hall."

After the lawyer goes, he says, "'Tis well: then we may drink a bout without going together by the ears." When the lawyer re-enters, he exclaims, "'Tis the lawyer with an itching palm; and he's come to be scratched—my nails are not long enough. Let me have a pair of red-hot tongs, quickly, quickly; and you shall see me act St. Dunstan, and lead the Devil by the nose." The lawyer runs off in a fright, and the pseudo-lunatic cries to him that he need not run so fast. "Honesty will not overtake you." Congreve shows his acuteness by attributing such sentiments as the foregoing to a madman.

Jeremy, a servant, endeavoring to give an adequate

idea of his skill in putting off his master's creditors, says, "I have dispatched some half a dozen duns with as much dexterity as a hungry Judge does causes at dinner-time."

Scandal, in speaking of his collection of portraits, — "as like as at Kneller's," — says, "I have some Hieroglyphics too: I have a Lawyer with a hundred Hands, two Heads, and but one Face."

FIELDING,

who himself was a lawyer, and a justice of the peace, has several gibes at the lawyers in "Don Quixote in England," a comedy little known. Sancho sings the following song: —

"Rogues there are of each nation,
Except among the divines;
And vinegar, since the creation,
Hath still been made of all wines.
Against one lawyer Lurch
A county scarce can guard:
One parson does for a church,
One doctor for a churchyard."

Brief, a lawyer, is cudgelled, and delivers himself as follows: "I'll have satisfaction: I won't be used after this manner for nothing, while there is either law, or judge, or justice, or jury, or crown-office, or actions of damages, or on the case, or trespasses, or assaults and batteries. I am abus'd, beaten, hurt, maimed, disfigured, defaced, dismembered, kill'd, massacred, and murdered by this rogue, robber, rascal, villain. I sha'n't be able to appear at Westminster half the whole term. It will be as good a three hundred pounds out of my pocket as

ever was taken." A physician suggests that the offender is mad. Brief replies, "Pshaw! the man is no more mad than I am. I should be finely off if he could be proved *non compos mentis*: 'tis an easy thing for a man to pretend madness *ex post facto*. Very fine doctrine! very fine indeed! A man's beating of another is a proof of madness. So that if a man be indicted he has nothing to do but to plead *non compos mentis*, and he's acquitted, of course: so there's an end of all actions of assault and battery at once." (This is worthy of study by those emotionally lunatic persons who murder men in a fit of jealousy, and after acquittal for madness, have a lucid interval all the rest of their lives.) Don Quixote argues that the lawyer himself is mad, "or he would not have gone into a scuffle, when it is the business of men of his profession to set other men by the ears and keep clear themselves." The piece winds up with a song, in which it is sung that

"Lawyers are for Bedlam fit,
Or they never
Could endeavor
Half the rogueries to commit
Which we're so mad to let 'em."

In his farce, "An Old Man taught Wisdom," Wormwood, a lawyer, asks, "What would you do without lawyers? Who'd know his own property?" In "Pasquin: a Dramatic Satire on the Times," being the rehearsal of two plays, viz., a comedy called "The Election," and a tragedy called "The Life and Death of Common Sense," Law is one of the characters of the tragedy, and conspires with Physic to overthrow Common Sense, saying, —

“While that drowsy queen
Maintains her empire, what becomes of us?
Thou knows’t, my Lord of Physic, I had long
Been privileg’d by custom immemorial,
In tongues unknown, or rather none at all,
My edicts to deliver through the land;
When this proud queen, this Common Sense, abridg’d
My power, and made me understood by all.
Physic. My lord, there goes a rumor through the court
That you descended from a family
Related to the queen: Reason is said
T’ have been the mighty founder of your house.

Law. Perhaps so; but we have rais’d ourselves so
high,
And shook this founder from us off so far,
We hardly deign to own from whence we came.”

The Queen of Common Sense enters, and says, —

“My Lord of Law, I sent for you this morning:
I have a strange petition given to me;
Two men, it seems, have lately been at law
For an estate, which both of them have lost,
And their attorneys now divide between them.

Law. Madam, these things will happen in the law.

Q. C. S. Will they, my lord? then better we have
none;

But I have also heard a sweet bird sing,
That men, unable to discharge their debts
At a short warning, being sued for them,
Have, with both power and will their debts to pay,
Lain all their lives in prison for their costs.

Law. That may perhaps be some poor person’s case,
Too mean to entertain your royal ear.

Q. C. S. My lord, while I am queen, I shall not think
One man too mean or poor to be redress’d:

Moreover, lord, I am inform'd your laws
 Are grown so large, and daily yet increase,
 That the great age of old Mathusalem
 Would scarce suffice to read your statutes out."

Queen Ignorance invades the realm, and is supported by the conspirators, including "attorneys all completely arm'd in brass." Queen Common Sense is overcome and slain; but while Ignorance is thanking Law and Physic for their aid, and assuring them that she will not forget their services, the ghost of the dead queen arises, and routs the whole crowd.

Fielding seems to think, however, that there is one occupation more infamous than that of the lawyer:—

"The lawyer who's been
 In the pillory seen,
 While eggs his complexion made yellow:
 Nay, the Devil's to blame,
 Or he'll own to his shame,
 That a stock-jobber has no fellow."

This, of course, seems extravagant to us in the year 1882.

In "Rape upon Rape, or the Justice caught in his own Trap," we find evidence that law was not, in Fielding's time, administered in the petty tribunals with that purity which now characterizes our justices' courts. Justice Squeezum, and Quill, his clerk, come upon the scene:—

"*Squeezum*. Did mother Bilkum refuse to pay my demands, say you?

Quill. Yes, sir: she says she does not value your worship's protection of a farthing; for that she can bribe

two juries a year to acquit her in Hicks' hall, for half the money which she hath paid you within these three months.

Squeez. Very fine ! I shall shew her that I understand something of juries as well as herself. Quill, make a memorandum against mother Bilkum's trial, that we may remember to have the panel No. 3 : they are a set of good men, and true, and hearken to no evidence but mine.

Quill. Sir, Mr. Snap, the bailiff's follower, hath set up a shop, and is a freeholder. He hopes your worship will put him into a panel on the first vacancy.

Squeez. Minute him down for No. 2. I think half of that panel are bailiffs' followers. Thank Heaven ! the laws have not excluded those butchers.

Quill. No, sir : the law forbids butchers to be jurymen, but does not forbid jurymen to be butchers.

Squeez. Quill, d'ye hear ? Look out for some new recruits for the panel No. 1. We shall have a swinging vacancy there the next session. Truly, if we do not take some care to regulate the juries in the Old Bailey, we shall have no juries for Hicks' hall.

Quill. Very true, sir. But that panel hath been more particularly unfortunate. I believe I remember it hanged at least twice over."

Squeezum elsewhere says, "The laws are turnpikes, only made to stop people who walk on foot, and not to interrupt people who drive through them in their carriages. The laws are like a game at loo, where a blaze of court-cards is always secure, and the knaves are the safest cards in the pack."

SHERIDAN,

in "The School for Scandal," has a good idea of the responsibility of slanderers, when he makes Sir Peter Teazle say, "I would have law merchant for them too; and in all cases of slander currency, whenever the drawer of the lie was not to be found, the injured parties should have a right to come on any of the indorsers."

KNOWLES.

In Sheridan Knowles's charming comedy, "The Love Chase," the same old tune is sung by Sir William Fondlove, for whom the lawyers are drawing up a marriage settlement:—

"Sir Wil. How many words you take to tell few things!
Again, again say over what, said once,
Methinks were told enough!

First Lawyer. It is the law
Which labors at precision.

Sir Wil. Yes, and thrives
Upon uncertainty—and makes it, too,
With all its pains to shun it. I could bind
Myself, methinks, with but the twentieth part
Of all this cordage, sirs."

However much men may complain of the verbosity of lawyers in fastening marriage upon them, I believe they are never known to find any fault with waste of words in unfastening the "cordage;" but this is a question fitter for the meridian of Chicago than for ours.

MISS EDGEWORTH,

also, in her comedy "Love and Law," portrays the litigious spirit of the Irish in an admirable manner. Counsellor O'Blaney says, "In Ireland it would as ill become a gentleman to be any way shy of a law-shute as of a duel." To the suggestion that law is expensive, he answers, "But 'tis the best economy in the end; for, when once you have cast or non-shuted your man in the courts, 'tis as good as winged him in the field. And suppose you don't get sixpence costs, and lose your cool hundred by it, still it's a great advantage; for you are let alone to enjoy your own in pace and quiet ever after, which you could not do in this county without it." Carver, a justice, says, "The poor have nothing to do with the laws.

O'Blaney. Except the penal.

Carver. True, the civil law is for us men of property."

Catty Rooney, a termagant, law-loving widow, speaking of a law-suit she has with a neighbor about a bit of bog, says, "I'll drive all the grazing cattle, every foor-footed baast off the land, and pound 'em in Ballynavogue; and if they replevy, why, I'll distrain again: if it be forty times, I will go. I'll go on distraining, and I'll advertise, and I'll cant, and I'll sell the distress at the end of eight days. And if they dare for to go for to put a plough in that bit of reclaimed bog, I'll come down upon 'em with an injunction: and I would not value the expense of bringing down a record a pin's pint; and if that went again me, I'd remove it to the courts above, and wilcome: and after that, I'd go into equity; and if the chancellor would not be my friend, I'd take it over to the House of Lords

in London, so I would, as soon as look at 'em; for I'd wear my feet to the knees for justice, so I would."

KENNY.

"Love, Law, and Physic," a farce by James Kenny, is celebrated. Mr. Daniel, in his introduction to the modern acting edition, says of the character of Flexible, the barrister, which was written for Matthews, "We were present on the second night of his performance, and had the good luck to see his imitation of the late Lord Ellenborough, in his mock charge to the jury, which was one of the finest things the actor ever did; for not only were the voice, manner, pronunciation, and *roll* of his lordship hit off with perfect exactness, but his very physiognomy was exhibited with astonishing truth. We never beheld an audience more completely taken by surprise. For some *special* reason, Matthews discontinued it after the second night." While it is hardly worth while to analyze the play, the passage above spoken of may be of interest. It is as follows: "Now, gentlemen, there cannot remain a doubt on your minds that the plaintiff's misfortune was aggravated, even as it originated by an unhappy manual encounter with the dear companion of his destiny, in which the acute extremities of her delicate fingers unfortunately dislodged the sovereign specific, while in the very act of performing its never-failing duty of restoration. Hence, gentlemen, it was not to the application of the remedy, but its removal; not to his medical friend's want of skill, but his spouse's want of temper; not to his Infallible Balsam, but to her cream of tartar, gentlemen,—that the plaintiff owes the injury for which he comes into court, and calls upon you for heavy damages."

In Townsend's sketch of Ellenborough, in "Lives of Twelve Eminent Judges," we find the following reference to Matthews's acting in this piece, and the "*special*" reasons that led to its sudden withdrawal: "The effect, we are told, was quite astonishing. The pit was almost filled with men of law. Soon after, Matthews received a request that he would go to Carlton House on a certain evening. He found the prince surrounded by a very small circle. After a most gracious reception, the general conversation was resumed; and Matthews was for some time at a loss to guess the immediate cause of his invitation. At length the prince began to speak of the extraordinary sensation Matthews's recent imitation had caused, adding that he had the greatest desire in the world to hear it, and concluded by saying that it would be considered as a favor if Matthews would then give the charge to the jury as he had given it on the first night of the new farce. Matthews obviously hesitated; and the prince said, 'Oh! don't be afraid, Mr. Matthews: we're all tiled here. Come, pray oblige me: I'm longing to hear it; I am something of a mimic myself. My brother, here' (turning to the Duke of York), 'can tell you that I give a very fair imitation of Lord Eldon. With respect to yours of Lord Ellenborough, it was not so well, when you found it so taken up, to continue it in public; and I am very glad your own good taste and feeling prompted you to refuse a repetition of it: but here you need have no scruples.' There were about twenty present. Mr. Matthews, of course, obeyed. The prince was in raptures, and declared himself astonished at the closeness of the imitation, shutting his eyes while he listened to it with excessive enjoyment. 'It is the man himself!' he

exclaimed. The Duke of York approved in peals of laughter. The clever mimic returned home delighted with his intoxicating reception, and the prince's object was gained."

One other passage from this play is worth quoting. Flexible, being asked if he can prove black is white, becomes enraged. "Shall a timber-merchant dare contend with me on points of law? Traduce its professors, asperse, blacken, detract, defame, contemn, injure, insult, hurt, wrong, annoy, calumniate, and heap them with contumely? Provoke wrath, generate choler, and kindle contention? Sir, are you acquainted with statute and common law? Do you know predicaments, præmunires, and precedents, *nolle prosequis*, *fi. fas.*, and *fieri facias*, with all the horrible dangers of *scandalum magnatum*? Any one of which, much more their united conglomeration, might sink you and your whole property, trade, credit, friends, family, and connections, in one vast, tremendous, irresistible, and uncontractible ruin!"

II.

AS DEPICTED BY THE NOVELISTS.

CERVANTES.

RIGHT here is a good place to skip over to the island of Barataria, and speak of that wise governor, Sancho Panza, who made a very judicious decision on a criminal complaint, which will always stand as a model for succeeding judges. A woman haled a man before the governor, complaining that he had ravished her. She told the usual story, — unexpected attack, unavailing resistance, and final triumph of superior force. The defence was, that the complainant consented. There were no other witnesses. Under modern administration, where women have no rights, the defendant would have been mulcted and imprisoned in short order. But Sancho was not of the nineteenth century. He asked the man if he had any money about him, and being answered that he had twenty silver pieces, commanded him to give them to the woman, and ordered the latter to leave the court. She went, with thanks to this "second Daniel." Then Sancho directed the man to pursue her, and take away the money from her. He went ; and both soon returned into the governor's presence, the woman clamoring for fresh justice against the man for attempted robbery. "What, then," asked the governor, "did he take the money from you?"

The woman replied that she was no such baby as to allow him to succeed ; and the man confessed that he could not, with all his strength, accomplish the governor's purpose. Therefore the governor commanded the woman to return the silver, and banished her the realm, under pain of stripes, with the intimation that if she had been as careful of her chastity as of her money, she would never have lost it. The exquisite humor of this scene can be appreciated only by reading the chapter : it is too broad for quotation, without having first received the revisions of some such gentleman as Mr. Bowdler, who edited an expurgated "*Family Shakspeare*." Peter Pindar has imitated this scene ; but as is not unusual in imitations, the humor is converted into deliberate vulgarity.

SMOLLETT.

One of the most entertaining legal characters in fiction is Tom Clarke, the attorney, in "*Sir Launcelot Greaves*." The character of a lawyer simply good would, of course, be utterly uninteresting ; and so the author has contrived to invest this character with interest by rendering him ineffably tedious. He says of him at the outset, that his "goodness of heart, even the exercise of his profession had not been able to corrupt. Before strangers he never owned himself an attorney without blushing, though he had no reason to blush for his own practice. . . . He piqued himself on understanding the practice of the courts, and in private company he took pleasure in laying down the law ; but he was an indifferent orator, and tediously circumstantial in his explanations."

Capt. Crowe narrates how his grandmother and his maiden aunt, by the assistance of an attorney, "hove him

out of his inheritance." — "'Yes, indeed, sir !' added Mr. Clarke, 'those two malicious old women docked the intail, and left the estate to an alien.' Here Mr. Ferrett thought proper to intermingle in the conversation with a 'Pish ! what, dost talk of docking the intail? Dost not know, that by the statute Westm., 2, 13 Ed., the will and intention of the donor must be fulfilled, and the tenant in *tail* shall not alien after issue had, or before?' — 'Give me leave, sir,' replied Tom, 'I presume you are a practitioner in the law. Now, you know, that in the case of a contingent *remainder*, the intail may be destroyed by levying a fine, and suffering a recovery ; or otherwise destroying the particular estate, before the contingency happens. If *feoffees*, who possess an estate only during the life of a son, where divers *remainders* are limited over, make a *feoffment* in fee to him, by the *feoffment* all the future *remainders* are destroyed. Indeed, a person in *remainder* may have a writ of intrusion, if any do intrude after the death of a tenant for life ; and the writ *ex gravi querela* lies to execute a devise in *remainder* after the death of a tenant in tail without issue.' — 'Spoke like a true disciple of Geber,' cried Ferrett. 'No, sir,' replied Mr. Clarke : 'Counsellor Caper is in the conveying way — I was clerk to Serjeant Croaker.' — 'Ay, now you may set up for yourself,' resumed the other ; 'for you can prate as unintelligibly as the best of them.' — 'Perhaps,' said Tom, 'I do not make myself understood. If so be as how that is the case, let us change the position, and suppose that this here case is *tail after possibility of issue extinct*. If a tenant in tail after a possibility make a *feoffment* of his land, he in reversion may enter for the forfeiture. Then we must make a distinction

between *general tail* and *special tail*. It is the word *body* that makes the *intail*: there must be a *body* in the *tail*, devised to heirs, male or female; otherwise it is a fee-simple, because it is not limited of what *body*. Thus a corporation cannot be seised in *tail*. For example, here is a young woman — what is your name, my dear? — ‘Dolly,’ answered the daughter, with a courtesy. ‘Here’s Dolly — I seise Dolly in *tail* — Dolly, I seise you in *tail*.’ — ‘Sha’n’t, then,’ cried Dolly, pouting. ‘I am seised of land in fee — I settle on Dolly in *tail*.’” For the continuation of this discussion, see the original report.

At a later period, Ferrett observed that Greaves was a common nuisance, and ought to be prosecuted on the statute of barratry. “‘No, sir,’ resumed Mr. Clarke, ‘he cannot be convicted of barratry unless he is always at variance with some person or other, a mover of suits and quarrels, who disturbs the peace under color of law. Therefore he is in the indictment styled, *communis malefactor, calumniator, et seminator litium*.’ — ‘Prythee truce with thy definitions,’ cried Ferrett, ‘and make an end of thy long-winded story. Thou hast no title to be so tedious, until thou comest to have a coif in the court of common pleas.’”

Tom also laid down the law of robbery. “‘Taking away another man’s movables,’ said he, ‘and personal goods, against the will of the owner, is *furtum* and felony according to the statute; different, indeed, from robbery, which implies putting in fear on the king’s highway, *in alta via regia violenter et felonice captum et asportatum, in magnum terrorum*, etc.; for if the robbery be laid in the indictment as one *in quadam via pedestri*, in a footpath, the offender will not be ousted of his

clergy. It must be *in alta via regia*; and your Honor will please to take notice that robberies committed on the river Thames are adjudged as done *in alta via regia*, for the king's high-stream is all the same as the king's highway.' "

Capt. Crowe and Tom, suspected of being highwaymen, were set upon and beaten, their horses and money were taken from them, and they were dragged before a justice, who committed them for vagrancy. Tom thus delivers himself on this complication: " 'As there was no just cause of suspicion, I am of opinion the justice is guilty of a trespass, and may be sued for *falsum imprisonamentum*, and considerable damages obtained; for you will please to observe, sir, no justice has a right to commit any person till after due examination: besides, we were not committed for an assault and battery, *audita querela*, nor as wandering lunatics by the statute, who, to be sure, may be apprehended by a justice's warrant, and locked up, and chained if necessary, or be sent to their last legal settlement; but we were committed as vagrants and suspected highwaymen. Now, we do not fall under the description of vagrants, nor did any circumstance appear to support the suspicion of robbery; for to constitute robbery, there must be something taken: but here nothing was taken but blows, and they were upon compulsion. Even an attempt to rob, without any taking, is not felony, but a misdemeanor. To be sure, there is a taking in deed, and a taking in law: but still the robber must be in possession of a thing stolen; and we attempted to steal ourselves away.' "

Mr. Gobble, the justice, is also a great character. Sir Launcelot being brought before him, he thus addresses

him: "The laws of this land has provided — I says as how provision is made by the laws of this here land, in reverence to delinquems and manefactors, whereby the king's peace is upholden by we magistrates, who represents his Majesty's person better than in e'er a contagious nation under the sun; but howsomever, that there king's peace, and this here magistrate's authority, cannot be adequably and identically upheld, if so be as how criminals escapes unpunished. Now, friend, you must be confidential in your own mind; as you are a notorious criminal, who have trespassed again the law on divers occasions and importunities: if I had a mind to exercise the rigor of the law, according to the authority wherewith I am wested, you and your companions in iniquity would be sewerely punished by the statue; but we magistrates has a power to litigate the sewerity of justice," etc.

Mrs. Gobble, the justice's wife, pronounces the knight "a vagram, and a dilatory sort of person," and says if she was her husband, she would "ferk him with a primineery."

In the "Adventures of Ferdinand Count Fathom" is an amusing account of a lawyer's bill, in which the count found himself charged with three hundred and fifty attendances. "He could not help expostulating with him on this article, which seemed to be so falsely stated with regard to the number; when his questions drew on an explanation, by which he found he had incurred the penalty of three shillings and fourpence for every time he chanced to meet the conscientious attorney, either in the park, the coffee-house, or the street, provided they had exchanged the common salutation: and he had great reason to believe the solicitor had often thrown himself in his way, with a view to swell this item of his account."

FIELDING.

In "Amelia," Fielding has some observations on the British laws and their administration. He speaks of the absurdity of appointing, as constables and watchmen, decrepit old people, who from want of bodily strength are incapable of getting a livelihood by work. "These men, armed only with a pole, which some of them are scarce able to lift, are to secure the persons and houses of his Majesty's subjects from the attacks of gangs of young, bold, stout, desperate, and well-armed villains. If the poor old fellows should run away from such enemies, no one, I think, can wonder, unless it be that they were able to make their escape." He also makes the startling statement, that he has "been sometimes inclined to think that this office of a justice of the peace requires some knowledge of the law, for this simple reason: because in every case which comes before him, he is to judge and act according to law. Again, as these laws are contained in a great variety of books,—the statutes which relate to the office of a justice of peace making of themselves at least two large volumes in folio, and that part of his jurisdiction which is founded on the common law being dispersed in above a hundred volumes,—I cannot conceive how this knowledge should be acquired without reading." He depicts the character of Justice Thrasher, who "was never indifferent in a cause but when he could get nothing on either side." To one who is accused of assault and battery, he says, "Sirrah, your tongue betrays your guilt. You are an Irishman, and that is always sufficient evidence with me." True British justice that, even to this day! Justice Thrasher proposed to commit an

accuser, who failed to make out his case, for perjury : but his clerk dissuaded him, by suggesting that he could not do it before indictment ; "because it is not against the peace till the indictment makes it so." — "Why, that may be !" cries the justice : "and indeed, perjury is but scandalous words ; and I know a man cannot have a warrant for those unless you put for rioting them into the warrant." This refers to the state of the law by which abusive words were not punishable by the magistrate, and to the practice which had grown into vogue of construing a little harmless scolding into a riot, and of committing scores of old women to prison for the licentious use of their tongues, which is the natural prerogative of their sex. Fielding also animadvertes with severity against the distinction then drawn between perjury and larceny ; the former being a misdemeanor only, and therefore bailable, and the latter a felony and non-bailable. He also refers to the law of Charondas, the famous law-giver of Thurnim, by which men who married the second time were removed from all public councils ; it being deemed unreasonable "to suppose that he who was so great a fool in his own family should be wise in public affairs." He denounces the injustice of the law which declares a larcenous breach of trust to be no crime, unless it be committed by a servant, and then only in case the goods taken amount in value to forty shillings, and in this connection makes the magistrate say, "Such are the laws, and such the method of proceeding, that one would almost think our laws were made rather for the protection of rogues than for the punishment of them." He makes another magistrate deny an application for a search-warrant to discover stolen title-deeds, on the ground that they "savoured of

the realty, and it was not felony to steal them. If, indeed, they were taken away in a box, then it would be felony to steal the box."

In Joseph Andrews, the jealous Lady Booby, desiring to prevent the marriage between Joseph and Fanny, and get them out of the parish, desired Parson Adams to discontinue publishing the banns. The parson replied, that Lawyer Scout informed him "that any person who serves a year gains a settlement in the parish where he serves." Thereupon the lady sent for Scout. "I am resolved," said she, "to have no discarded servants of mine settled here; and so, if this be your law, I shall send to another lawyer." Scout said, "If she sent to a hundred lawyers, not one or all of them could alter the law. The utmost that was in the power of a lawyer, was to prevent the law's taking effect; and that he could do for her ladyship as well as any other. And I believe," says he, "madam, your ladyship, not being conversant in these matters, hath mistaken a difference; for I asserted only, that a man who served a year was settled. Now, there is a material difference between being settled in law and settled in fact; and as I affirmed generally he was settled, and law is preferable to fact, my settlement must be understood in law and not in fact. And suppose, madam, we admit he was settled in law, what use will they make of it? How doth that relate to fact? He is not settled in fact; and, if he be not settled in fact, he is not an inhabitant; and, if he is not an inhabitant, he is not of this parish; and then undoubtedly he ought not to be published here: . . . if we can prove in evidence that he is not settled in fact, it is another matter. What I said to Mr. Adams was on a supposition that he was

settled in fact; and indeed, if that was the case, I should doubt . . . the subsequent marriage, co-operating with the law, will carry law into fact. When a man is married, he is settled in fact; and then he is not removable. . . . The laws of this land are not so vulgar to permit a mean fellow to contend with one of your ladyship's fortune. We have one sure card, which is, to carry him before Justice Frolick, who, upon hearing your ladyship's name, will commit him without any further questions. . . . To say truth, it is a great blessing to the country that he is in the commission; for he hath taken several poor off our hands that the law would never lay hold on. I know some justices that make as much of committing a man to Bridewell as his lordship at 'size would of hanging him: but it would do a man good to see his worship, our justice, commit a fellow to Bridewell, he takes so much pleasure in it; and when once we ha'un there, we seldom hear any more o'un. He's either starved, or eat up by vermin, in a month's time." . . . "This Scout was one of those fellows, who, without any knowledge of the law, or being bred to it, take upon them, in defiance of an Act of Parliament, to act as lawyers in the country, and are called so. They are the pests of society, and a scandal to a profession to which indeed they do not belong, and which owes to such kind of rascallions the ill-will which weak persons bear towards it."

STERNE.

In "*Tristram Shandy*" we find a learned argument on the proposition "That the mother is not of kin to her child." The adjudication to this effect in the Duke of Suffolk's case, "cited in Brooke, taken notice of by

Coke, and found in Swinburne on Testaments," is thus stated by Sterne : —

"In the reign of Edward the Sixth, Charles, Duke of Suffolk, having issue a son by one venter, and a daughter by another venter, made his last will, wherein he devised goods to his son, and died ; after whose death the son died also, but without will, without wife and without child ; his mother and his sister by the father's side (for she was born of the former venter) then living. The mother took the administration of the son's goods, according to the statute of the 21st of Harry the Eighth, whereby it is enacted, That in case any person die intestate, the administration of his goods shall be committed to the next of kin. The administration being thus (surreptitiously) granted to the mother, the sister by the father's side commenced a suit before the ecclesiastical judge, alleging, 1st, that she herself was next of kin ; and 2d, that the mother was not of kin at all to the party deceased ; and therefore prayed the court that the administration granted to the mother might be revoked, and be committed unto her, as next of kin of the deceased, by force of the said statute. Hereupon, as it was a great cause, and much depending upon its issue, and many causes of great property likely to be decided, in times to come, by the precedent to be then made, the most learned, as well in the laws of this realm as in the civil law, were consulted together, whether the mother was of kin to her son or no? Whereunto, not only the temporal lawyers, but the church lawyers, the juriconsulti, the jurisprudentes, the civilians, the advocates, the commissaries, the judges of the consistory and prerogative courts of Canterbury and York, with the master of

the faculties, were all unanimously of opinion that the mother was not of kin to her child." This sage decision was based on the civil maxim, *Liberi sunt de sanguine patris et matris, sed pater et mater non sunt de sanguine liberorum*. "'Let the learned say what they will, there must certainly,' quoth my uncle Toby, 'have been some sort of consanguinity betwixt the Duchess of Suffolk and her son.' — 'The vulgar are of the same opinion,' quoth Lorick, 'to this hour.'"

I doubt the active participancy of the temporal lawyers in this decision, and am inclined to give the entire credit of it to those tribunals of which Clarendon wrote: "I have never yet spoken with one clergyman, who hath had the experience of both litigations, that hath not ingenuously confessed he had rather, in the respect to the trouble, charge, and satisfaction to his understanding, have three suits depending in Westminster Hall than one in the arches, or any ecclesiastical court." It would probably be time wasted for the members of our profession to look for this case in the books; as I suspect that notwithstanding its *vraisemblance*, it had its origin in Sterne's fantastic brain.

Sterne also, in "The Author's Preface," draws a picture representing an extraordinary state of things, in which persons of the learned and cultivated professions agree instead of disagreeing, and are directed by laudable, natural, and sensible motives instead of those selfish and inconsistent ones that usually guide their conduct. Thus he speaks of "fiddlers and painters, judging by their eyes and ears," and of physicians "feeling their patients' pulse instead of their apothecary's." As to lawyers he observes, —

"In that spacious hall, a coalition of the gown, from all the bars of it, driving a damn'd, dirty, vexatious cause before them, with all their might and main, the wrong way ! kicking it *out* of the great doors, instead of *in* ! and with such fury in their looks, and such a degree of inveteracy in their manner of kicking it, as if the laws had been originally made for the peace and preservation of mankind ; perhaps a more enormous mistake committed by them still, a litigated point fairly hung up ; for instance, whether *Fohn o' Nokes* his nose could stand in *Tom o' Stiles* his face, without a trespass, or not ? rashly determined by them in five and twenty minutes, which, with the cautious pro's and cons required in so intricate a proceeding, might have taken up as many months ; and if carried on upon a military plan, as your Honors know an ACTION should be, with all the stratagems practicable therein, such as feints, forced marches, surprises, ambuscades, mask-batteries, and a thousand other strokes of generalship, which consist in catching at all advantages on both sides, might reasonably have lasted them as many years, finding food and raiment all that term for a centumvirate of that profession."

SCOTT.

Of the administration of justice in Scotland, Walter Scott, himself a lawyer, gives a most humorous picture in "*Redgauntlet*." In this admirable novel the character of the elder Fairford, a brisk, smart, pedantic, shrewd, learned, fussy attorney, is drawn to the life. His son, Allen Fairford, is designed for the bar ; and the old gentleman finds an excellent opportunity to put him forward in his *début*. Peter Peebles, "an insane beggar, as poor

as Job, and as mad as a March hare," has for fifteen years had a suit against one Plainstones, "*et per contra.*" To use his own words, "If he is laird of naething else, he is *dominus litis.*" It is this suit, to which no parallel was ever framed in fiction save the honored case of Jarn-dyce, which old Fairford tells his son he must be ready to argue before the lords at three or four days' notice. When his son fears that he should spoil any cause thrust on him so hastily, the old man replies, "The chirurgeons have a useful practice by which they put their apprentices and *tyrones* to work upon senseless dead bodies, to which, as they can do no good, so they can certainly do as little harm. Ye cannot spoil it, Alan. As there have been about ten or a dozen agents concerned, and each took his own way, the case is come to that pass that Stair or Armiston could not mend it: and I do not think that even you, Alan, can do it much harm; ye may get credit by it, but can lose none." Peebles being a suitor in *forma pauperis*, Dumtoustie, one of the poor's lawyers, and nephew to one of the lords, had been assigned to the conduct of the case; "but as soon as the hair-brained goose saw the pokes" (process-bags), "he took fright, called for his nag, lap on, and away to the country is he gone." The lord, his uncle, being much mortified at this defection, old Fairford offered his son Alan to fill the gap, an offer eagerly embraced by the runaway's uncle, and by the crack-brained client himself. The account is contained in a letter from the young attorney to his friend Darsie Latimer. "My father called to James Wilkinson to bring in the two bits of pokes he would find on his table. Exit James, and presently re-enters, bending under the load of two huge leathern bags,

full of papers to the brim, and labelled on the greasy backs with the magic impress of the clerks of court, and the title 'Peebles against Plainstones.' This huge mass was deposited on the table ; and my father, with no ordinary glee in his countenance, began to draw out the various bundles of papers, secured by none of your red tape or whip-cord, but stout, substantial casts of tarred rope, such as might have held small craft at their moorings." The crazy client is then introduced upon the scene ; and Alan continues, "Such insane paupers have sometimes seemed to me to resemble wrecks lying upon the shoals on the Goodwin Sands, or in Yarmouth Roads, warning other vessels to keep aloof from the banks on which they have been lost ; or rather, such ruined clients are like scarecrows and potato-bogles, distributed through the courts to scare away fools from the scene of litigation." Peter made the terrifying proposition to state the case himself to Alan, but the old gentleman came to the rescue : "I am your agent for the time," resumed my father ; "and you, who are acquainted with the forms, know that the client states the cause to the agent—the agent to the counsel."—"The counsel to the Lord Ordinary," continued Peter, once set a-going, like the peal of an alarm-clock, "the Ordinary to the Inner House, the President to the bench. It is just like the rope to the man, the man to the ox, the ox to the water, the water to the fire." Old Fairford then goes on to explain the causes to his son. Peter Peebles and Paul Plainstones had been partners, who having dissolved the partnership by consent, their affairs at length came into court, and "branched out into several distinct processes, most of which have been conjoined by the Ordinary. There is

the original action of 'Peebles *v.* Plainstones,' convening him for payment of £3,000, less or more, as alleged balance due by Plainstones. 2d, There is a counter-action, in which Plainstones is pursuer, and Peebles defender, for £2,500, less or more, being balance alleged *per contra* to be due by Peebles. 3d, Mr. Peebles's seventh agent advised an action of compt and reckoning at his instance, wherein what balance should prove due on either side might be fairly struck and ascertained. 4th, To meet the hypothetical case, that Peebles might be found liable in a balance to Plainstones, Mr. Wildgoose, Mr. Peebles's eighth agent, recommended a multiplepinding to bring all parties concerned into the field." This last form of action is highly approved by poor Peter, who declares it "the safest *remedium juris* in the whole form of process," and that he has "known it conjoined with a declarator of marriage." Peter also confirms old Fairford's statement of the case, but suggests that he has "omitted to speak a word of the arrestments, or of the action of suspension of the charge on the bill, or the advocacy of the sheriff-court process." There were also other actions branching out of the main cause, such as when Peter "compelled the villain Plainstones to pull his nose within two steps of King Charles' statue in the Parliament Close." This however proved a "stumper." "Never man could tell me how to shape that process: no counsel that ever selled wind could condescend and say whether it were best to proceed by way of petition and complaint, *ad vindictam publicam*, with consent of his Majesty's advocate, or for action on the statute for battery *pendente lite*, whilk would be the winning my plea at once, and so getting a back-door out of court." But

Peter's "pet process of all" was, when he had the good luck to provoke his antagonist to pull his nose at the very threshold of the court,—a grievous offence. One counsel was for making it out *hamesucken*, the essence of which is, to strike a man in his dwelling-place, on the theory that the court was Peter's dwelling-place.

With the aid of his father, young Fairford succeeded in understanding this complicated cause, and was in the midst of a convincing argument in court when an untoward accident happened. His father, who was selecting and giving to him, for the purpose of reading them to the court, various letters from the correspondence of the parties, by oversight handed him a letter relating to his friend Darsie Latimer, which had arrived pending Alan's examination of the cause, and which his father had suppressed for fear it might take Alan away from his duty. This letter informed Alan that Darsie had got into a scrape down the country; and, on perusing it, Alan flung down his brief, and rushed out of court, leaving his client in the lurch, and himself liable to the imputation made upon him with Dumtoustie by one of their lordships, of having lost his wits. "In the mean while," says Scott, "although the haze which surrounded the cause or causes of that unfortunate litigant had been, for a time, dispelled by Alan's eloquence, like a fog by the thunder of artillery, yet it seemed once more to settle down upon the mass of litigation thick as the palpable darkness of Egypt, at the very sound of Mr. Tough's voice, who, on the second day after Alan's departure, was heard in answer to the opening counsel. Deep-mouthed, long-breathed, and pertinacious, taking a pinch of snuff betwixt every sentence, which otherwise seemed interminable, the veteran

pleader prosed over all the themes which had been treated so luminously by Alan. He quietly and imperceptibly replaced all the rubbish which the other had cleared away, and succeeded in restoring the veil of obscurity and unintelligibility which had for many years darkened the case of Peebles against Plainstones; and the matter was once more hung up by a remit to an accountant, with instructions to report before answer." The case went, as old Fairford said, "just like a decret in absence, and was lost for want of a contradictor."

Peter, true to his habit, served both Fairfords with a petition and complaint for malversation in office. Not content with this, he pursues Alan down the country; and we next meet him in an amusing scene before Squire Foxley and his clerk, Master Nicholas, — a scene which perhaps furnished Dickens with the ideas of his Justice Nupkins and Clerk Jinks in "Pickwick Papers," — in which he inquires, "Is't here they sell the fugie warrants?" His purpose is, "to apprehend a young lawyer that is *in meditatione fugæ*," and whom he has "run ower to the English side." In answer to the justice's inquiry if he had robbed him, Peter replies, "He has robbed me of himself — of his help, comfort, aid, and assistance; whilk, as a counsel to a client, he is bound to yield me, *ratione officii*." The warrant is granted, and afterward answers the purpose of mixing the plot up just as well as if it had been legal; for Alan is arrested on it, and temporarily restrained of his liberty.

Any lawyer who has noted the importance that petty litigants arrogate on account of their law-suits, will appreciate the force of poor Peter's words: "It's very true that it is grandeur upon earth to hear one's name thun-

dered out along the long-arched roof of the Outer-House, — ‘*Poor Peter Peebles against Plainstones et per contra*,’ a’ the best lawyers in the house fleeing like eagles to their prey ; some because they are in the cause, and some because they want to be thought engaged ; to see the reporters mending their pens to take down the debate ; the lords themselves pooin’ in their chairs, like folk sitting down to a gude dinner, and crying on the clerks for parts and pendicles of the process. To see a’ this, and to ken that naithing will be said or dune among a’ thae grand folk, for maybe the feck of three hours, saving what concerns you and your business, — O man ! nae wonder that ye judge this to be earthly glory !” To this he thinks there are some offsets. “To see ane’s warldly substance capering in the air in a pair of weigh-banks, now up, now down, as the breath of judge or counsel inclines it for pursuer or defender,” — this he deems a drawback.

The delays of the Scottish law are slyly satirized in a speech of Mackitchinson, the host, to the Antiquary : “I thought ye had some law affair of your ain to look after. I have ane myself, — a ganging plea that my father left me, and his father afore left to him. It’s about our back-yard ; ye’ll maybe hae heard of it in the Parliament House, — Hutchinson against Mackitchinson : it’s a weel kenn’d plea, — it’s been four times in afore the fifteen, and deil onything the wisest o’ them could make o’t, but just to send it out again to the Outer-House. Oh, it’s a beautiful thing to see how lang and how carefully justice is considered in this country !”

LEVER.

An amusing example of how ignorant of the forms and substance of legal procedure a famous author can afford to be, is furnished in Charles Lever's novel entitled "The Daltons ; or, Three Roads in Life." He details the fortunes of a family of the Irish gentry, whose decayed condition compelled them to pass their lives in exile on the Continent. The scene opens at Baden-Baden in the decade from 1820 to 1830. Peter Dalton, the head of this family of exiles, dies at Baden-Baden. His family get an inkling that an accusation is to be set on foot in Ireland against their deceased father, charging him with having murdered a kinsman by the name of Godfrey before leaving Ireland. The family hasten to Ireland to make defence against the charge. On their arrival in Ireland it turns out that an indictment against the dead Dalton, for the murder of Godfrey, had been concocted in a lawyer's office without the intervention of a grand jury. All parties prepare for trial. The trial is held at Kilkenny, so famous for its cat combat ; but that struggle was nothing compared to the scene which is now depicted. Meekins, the chief witness for the prosecution, is put on the stand, and tells an awful story, but by a skilful cross-examination, is made, not only to exculpate the deceased accused, but to inculcate himself as the murderer, is ordered by the judge into the dock on the spot : the trial goes on against *him*, without intermission, under the same indictment and before the same jury ; and he is convicted, sentenced, and executed ! Now, as Squeers would say, here's "richness." The author is as credulous as an old woman as to the fearful effects of cross-examination.

Hear him : "If they can involve him (the witness) in a narrative, be it ever so slight or vague, these lawyers exercise a kind of magic power in what is called cross-examination, and can detect a secret fact by tests as fine as those by which the chemist discovers a grain of poison." It would be exact chemistry indeed that could discover a grain of sense in such writing as this. Truly, this is not one of the Levers by which Archimedes promised to move the world ; and yet it is from such books that nine-tenths of the novel-reading world get their ideas of law and its administration.

If any thing could atone for such blundering, it would be the picture of Irish justice, as drawn in the same novel ; Peter Dalton aforesaid, in his lifetime, being the artist : —

"Look at the shouts of laughing in the law-coorts ! At any trial, — murder, if you like, — see how the fun goes on, — the judge quizzing the jury, and the counsel quizzing the judge, and the pris'ner quizzing all three. There was poor old Norbury — rest his soul ! — I remember well how he couldn't put on the black cap for laughing. Many's the time in Ireland, when, what between the blunderin' of the crown lawyers, the flaws of the indictment, the conscientious scruples of the jury, — you know what that means, — and the hurry of the judge to be away to Harrowgate or Tunbridge, a villain gets off. But instead of going out with an elegant, bran-new character, a bit of joke — a droll word spoken during the trial — sticks to him all his life after, till it would be just as well for him to be hanged at once as be laughed at from Pill Lane to the Lakes of Killarney. Don't I remember well when one of the Regans — Tim, I think it was — was tried for

murder at Tralee ! There was a something or other they couldn't convict upon. 'Twas his grandmother's age was put down wrong, or the color of his step-mother's hair ; or the nails in his shoes wasn't described right ; whatever it was, it was a flaw, as they called it ; and a flaw in a brief, like one in a boiler, leaves everybody in hot water," etc.

BULWER.

In a note to the edition of "Night and Morning," published in 1851, Lord Lytton says, "The work lays claim to one kind of interest which I certainly never intended to effect for it ; viz., in exemplifying the glorious uncertainty of the Law. For humbly aware of the blunders which novelists, not belonging to the legal profession, are apt to commit when they summon to the *dénouement* of a plot the aid of a deity so mysterious as Themis, I submitted to an eminent lawyer the whole case of 'Beaufort *versus* Beaufort,' as it stands in this novel. And the pages which refer to that suit were not only written from the opinion annexed to the brief I sent in, but submitted to the eye of my counsel, and revised by his pen. N. B. — He was feed. Judge, then, my dismay, when I heard, long afterward, that the late Mr. O'Connell disputed the soundness of the law I had thus bought and paid for ! 'Who shall decide when doctors disagree ?' All I can say is, I took the best opinion that love or money could get me ; and I should add, that my lawyer, unawed by the alleged *ipse dixit* of the great Agitator (to be sure, he is dead), still stoutly maintains his own views of the question. I have however thought it prudent, so far to meet the objection suggested by Mr. O'Connell, as to make a slight alteration in this edition," etc.

I have not had the curiosity to endeavor to discover the alleged error : because the error, if any existed, was the fault of our profession, and not that of the novelist ; assuming the correctness of his lordship's statement. It is to be feared, however, that his lordship was parsimonious in the matter of the fee ; or that being a second-rate novelist, he naturally took to a lawyer of like rank. But I have cited his note to commend the good sense of his example to all novel-writers who touch on Law, and especially to such as Lever and Cooper.

THACKERAY,

in "Cox's Diary," one of his collection of minor sketches, gives this picture of an irrepressible Irish barrister : "We received a strange document from Higgs, in London, which began, 'Middlesex, to wit : Samuel Cox, late of Portland Place, in the city of Westminster, in said county, was attached to answer Samuel Scapgoat of a plea, wherefore, with force and arms, he entered into one messuage, with the appurtenances, which John Tuggeridge, Esq., demised to the said Samuel Scapgoat, for a term which is not yet expired, and ejected him.' And it went on to say that we, 'with force of arms, viz., with swords, knives, and staves, ejected him.' Was there ever such a monstrous falsehood ?

"Higgs, Biggs, and Blatterwick had evidently been bribed : for — would you believe it ? — they told us to give up possession at once ; as a will was found, and we could not defend the action.

"Well, the cause was tried. Why need I say any thing concerning it ? What shall I say of the Lord Chief Justice, but that he ought to be ashamed of the wig he

sits in? What of Mr. — and Mr. —, who exerted their eloquence against justice and the poor? On our side, too, was no less a man than Mr. Sergeant Binks, who, ashamed I am for the honor of the British bar to say it, seemed to have been bribed too; for he actually threw up his case! Had he behaved like Mr. Mulligan, his junior, — and to whom, in this humble way, I offer my thanks, — all might have been well. I never knew such an effect produced, as when Mr. Mulligan, appearing for the first time in that court, said, ‘Standing here, upon the pedestal of sacred Themis; seeing around me the arnymints of a profession I respect; having before me a venerable judge and an enlightened jury, — the country’s glory, the nation’s cheap defender, the poor man’s priceless palladium, — how must I thrimble, my lard, how must the blush bejew my cheek’ — (Somebody cried out, ‘O cheeks!’ In the court there was a dreadful roar of laughing; and when order was established, Mr. Mulligan continued): ‘My lard, I heed them not: I come from a country accustomed to oppression; and as that country — yes, my lard, *that Ireland* — (do not laugh: I am proud of it) — is ever, in spite of her tyrants, green and lovely and beautiful, my client’s cause, likewise, will rise superior to the malignant imbecility — I repeat, the MALIGNANT IMBECILITY — of those who would thrample it down; and in whose teeth, in my client’s name, in my country’s, — aye, and *my own*, — I, with folded arrums, hurl a scornful and eternal defiance!’

“‘For Heaven’s sake, Mr. Milligan’ — (‘MULLIGAN, me lard,’ cried my defender.) ‘Well, Mulligan, then, be calm, and keep to your brief.’

“Mr. Mulligan did: and for three hours and a quarter,

in a speech crammed with Latin quotations, and unsurpassed for eloquence, he explained the situation of me and my family ; the romantic manner in which Tuggeridge, the elder, gained his fortune, and by which it afterward came to my wife ; the state of Ireland ; the original and virtuous poverty of the Coxes — from which he glanced passionately for a few minutes (until the judge stopped him) to the poverty of his own country ; my excellence as a husband, father, landlord ; my wife's, as a wife, mother, landlady.

“ All was in vain : the trial went against us.”

WARREN.

Probably the first law-book that the student gets hold of is “Ten Thousand a Year,” in which Mr. Samuel Warren, an amiable and funny but rather mean-spirited barrister, mixes up some bad law with a good deal of toadyism and servility to “the upper classes.” His firm of rascally attorneys, Quirk, Gammon, & Snap, are familiar and celebrated. In spite of the author, Oily Gammon is a much more interesting character — I had almost said a more respectable character — than his too saintly hero. Unintentionally the author excites our sympathy for him, just as Milton does for Satan. We need now only point out the bad law ; leaving the book to be read, as it certainly deserves to be, for its combination of cleverness and cringing. There is a great ejectment suit, in which the hero's title depends on an ancient deed, in which there was an apparent erasure, written over by the same hand, but unnoted. The presiding judge refused to admit the instrument in evidence. Now, this has not been law in three hundred years, if it ever was. The

instrument is always admitted ; and, if the erasure is material, the jury are to pronounce whether it was made before or after delivery. Some courts say, there is a presumption that an erasure was made before delivery, because the presumption is always against fraud ; others that there is no presumption either way ; but all agree that the paper must be received for what it may be worth. Those who are curious on this point may find it well discussed in the recent case of *Neil v. Case*, 25 Kans. 510 ; S.C. 37 Am. Rep. 259 ; to which the editor of the latter series has appended an exhaustive note.

COOPER.

This novelist has a good deal to say of the subject in hand. He himself was in law pretty much all his life. What with prosecuting editors, who criticised his later and poorer novels ; and a standing fight with his neighbors at Cooperstown, whom he accused of trespassing on his manorial rights, — we may readily suppose he was in a most unenviable state of mind. He was a man of haughty manners, of unyielding temper, and of aristocratic ideas. After all he wrote in praise of the Indian character, one might expect him to side with the Anti-Rent movement ; but I am informed that he published several novels against it. I believe he was generally successful in his libel suits, for in his day the people of this country were much more proud of a second-rate author than of a first-rate editor : but he must at some time have met with a rebuff ; for, in “*The Ways of the Hour*,” we find a systematic and elaborate attack on the trial by jury. The key-note is sounded in the preface. He here announces the object of the book to be “to draw the

attention of the reader to some of the social evils that beset us, more particularly in connection with the administration of criminal justice." As to jury-trial he says, "In our view, the institution itself, so admirable in a monarchy, is totally unsuited to a democracy." He refers to the prejudices of juries against railroad companies, and against the claims of non-resident creditors, and to the influence of politics in the composition and verdicts of juries. And he makes the startling announcement, "It is certain that the juries are falling into disrepute throughout the length and breadth of the land."

In this book, written in 1850, we find plenty of sneers at the newly adopted Code of Procedure, and at the system of choosing judges by popular election; although the author discloses that he is as grossly ignorant of the design and scope of the one as he must necessarily have been of the practical results of the other. The plot is as absurd as could be conceived. A young lady is indicted for the murder of an aged married couple, in whose family she, with another woman, a German, had been an inmate. The house burns down: two human skeletons are found in the ruins, bearing marks of violence on the head. A piece of money is found in the possession of the accused corresponding to a peculiar piece known to have been kept by the old people among their hoard in a stocking. The old man and the German woman were both missing, but the medical testimony leaned to the theory that the skeletons were both female. The accused is first put on trial for the murder of the old man. With no more proof than the foregoing of the *corpus delicti*, and no evidence on the part of the defence to speak of, and in spite of a charge very favora-

ble to the accused, the jury find the prisoner guilty. She is sentenced to die, but just then the old man walks into court ! Some discussion ensues as to what to do in this juncture. One of the lawyers suggests an examination of the code ! But, leaving matters just as they are, the prisoner, sentenced to die for the murder of an individual alive and well in court, is put on trial for the murder of the old woman ! Out of this embarrassing predicament the fair accused is delivered by her own acuteness. She herself conducts the cross-examination of the people's chief witness, a woman who identifies the piece of money, and worrying her as only one woman can worry another, makes the witness confess that she stole the stocking-board, and put the peculiar piece of money in the prisoner's purse, and that the wounds on the skulls of the deceased were caused by a ploughshare which fell on them. Of course the young lady was acquitted ; and it was not deemed worth while after this to put her on trial for the arson, of which she also stood indicted. Mr. Cooper however does not explain to us what was done with the sentence of death, nor whether the code furnished any road out of the difficulty.

One might be surprised that an author of Cooper's calibre should seriously anticipate that such trivialities as these could shake the system of trial by jury : but I must do him the justice to say that he did not anticipate any thing of the sort ; for he tells us in his preface, that he "has not the vanity to suppose that any thing contained in this book will produce a very serious impression on the popularity of the jury : " but when in connection with this subject, he informs us that he designs the book

"to cause a portion of his readers to reflect on the subject," I must confess that the most obvious reflection is, that if juries were constituted and justice administered as the author depicts them, it is no wonder that he procured some verdicts in his favor in libel-suits.

DICKENS.

Presuming that this author's writings are familiar to every lawyer, if not to every one else, I had not purposed to make any quotations from them or criticisms upon them. We are all, I take it, pretty familiar with his legal characters, — Tulkinghorn and Vholes, Sampson Brass and his sister Sally, Justice Nupkins and his clerk Jinks, Sergeant Buzfuzz, the promising young Mr. Phunkey and the little judge, Messrs. Dodson & Fogg, and the inexorable partner Jorkins. If he had done nothing else in this way except to draw that wonderful scene in "Our Mutual Friend," where Rogue Riderhood makes his "Alfred Davy," he would have demonstrated his acute knowledge of human nature and of the workings of legal affairs. But a re-perusal of "Bleak House" has induced me to devote a few moments to some reflections upon this writer. It is commonly urged against Dickens that he is a caricaturist. This cannot be denied. The scenes of life, as he draws them, are colored by his strong imagination and his deep sympathies. His intellectual eyes seem to be what Sam Weller calls "a pair of patent double million magnifying gas microscopes of hextra power." His pictures of the theory and administration of law are doubtless exaggerations, but they are useful ones. In his preface to "Les Plaideurs," Racine observes, "For my own part, I think Aristophanes was

right in carrying his ideas beyond the bounds of probability. The judges of the Areopagus perhaps would not easily have discovered that he had satirized their natural avidity for gain, the clever tricks of their clerks, and the tediousness of their advocates. It was proper to exaggerate these personages a little, to enable them to recognize themselves." And so it was proper for Dickens, in the famous trial of "*Bardell v. Pickwick*," to exaggerate the intellectual narrowness of the judge, the skill of advocates in making mountains out of mole-hills, the badgering of witnesses, the garrulity of women, and the stupidity of jurors. But in that superb romance, "*Bleak House*," I find little exaggeration. It would indeed be difficult, even for Dickens, to exaggerate the wrongs growing out of the chancery system, — that monstrous monument of legal ingenuity, perversion, and oppression. When I reflect upon it, I can think of but one grain of mitigation that our profession can urge for themselves: it is a system invented by the clergy, and thrust upon us. We have the same excuse for tolerating it that the present generation of slaveholders had for practising the crime of slavery. Selden discovered the radical fault of the chancery system two centuries ago. "Equity in law," he says, "is the same that the spirit is in Religion, what every one pleases to make it. Sometimes they go according to Conscience, sometimes according to Law, sometimes according to the Rule of Court. Equity is a Roguish thing; for Law we have a measure, know what to trust to: Equity is according to the Conscience of him that is Chancellor, and as that is larger or narrower, so is Equity. 'Tis all one as if they should make the standard for the measure we call a foot, a Chancellor's

foot: what an uncertain measure would this be? One Chancellor has a long Foot, another a short Foot, a third an indifferent Foot. 'Tis the same thing in the Chancellor's Conscience." He might have added, whatever else it is, the chancellor's foot is always heavy. The proposition substantially made to a recent legislature of New York, to return to the distinction between law and equity in this State, strikes me as would a proposal to Congress to return to the system of involuntary servitude.

"Bleak House" is generally considered one of the author's failures. To me it is his greatest success. The story is too gloomy, perhaps, to appeal to the ordinary novel-reading taste; but for lawyers it possesses a terrible interest. Believing that our profession are not so familiar with it as they ought to be, let me make some quotations. Is there much exaggeration in his picture of the court of chancery and a chancery suit?

"On such an afternoon, if ever, the lord high chancellor ought to be sitting here — as here he is — with a foggy glory round his head, softly fenced in with crimson cloth and curtains, addressed by a large advocate with great whiskers, a little voice, and an interminable brief, and outwardly directing his contemplation to the lantern in the roof, where he can see nothing but fog. On such an afternoon, some score of members of the high court of chancery bar ought to be — as here they are — mistily engaged in one of the ten thousand stages of an endless cause, tripping one another up on slippery precedents, groping knee-deep in technicalities, running their goat-nair and horse-hair warded heads against walls of words, and making a pretence of equity with serious faces, as players might. On such an afternoon the various solicitors

in the cause, some two or three of whom have inherited it from their fathers, who made a fortune by it, ought to be — as are they not? — ranged in a line, in a long, matted well (but you might look in vain for Truth at the bottom of it) between the registrar's red table and the silk gowns, with bills, cross-bills, answers, rejoinders, injunctions, affidavits, issues, references to masters, masters' report, mountains of costly nonsense, piled before them. Well may the court be dim, with wasting candles here and there; well may the fog hang heavy in it, as if it would never get out; well may the stained-glass windows lose their color, and admit no light of day into the place; well may the uninitiated from the streets, who peep in through the glass panes in the door, be deterred from entrance by its owlish aspect, and by the drawl languidly echoing to the roof from the padded dais where the lord high chancellor looks into the lantern that has no light in it, and where the attendant wigs are all stuck in a fog-bank! This is the court of chancery; which has its decaying houses and its blighted lands in every shire; which has its worn-out lunatic in every mad-house, and its dead in every churchyard; which has its ruined suitor, with his slipshod heels and threadbare dress, borrowing and begging through the round of every man's acquaintance; which gives to moneyed might the means abundantly of wearying out the right; which so exhausts finances, patience, courage, hope; so overthrows the brain and breaks the heart, that there is not an honorable man among its practitioners who would not give — who does not often give — the warning, 'Suffer any wrong that can be done you rather than come here!'

"Who happen to be in the lord chancellor's court

this murky afternoon besides the lord chancellor, the counsel in the cause, two or three counsel who are never in any cause, and the well of solicitors before mentioned? There is the registrar below the judge, in wig and gown; and there are two or three maces, or petty-bags, or privy-purses, or whatever they may be, in legal court-suits. These are all yawning; for no crumb of amusement ever falls from JARNDYCE AND JARNDYCE (the cause in hand), which was squeezed dry years upon years ago. The short-hand writers, the reporters of the court, and the reporters of the newspapers, invariably decamp with the rest of the regulars when Jarndyce and Jarndyce comes on. Their places are a blank. Standing on a seat at the side of the hall, the better to peer into the curtained sanctuary, is a little mad old woman in a squeezed bonnet, who is always in court, from its sitting to its rising, and always expecting some incomprehensible judgment to be given in her favor. Some say she really is, or was, a party to a suit; but no one knows for certain, because no one cares. She carries some small litter in a reticule, which she calls her documents; principally consisting of paper matches and dry lavender. A sallow prisoner has come up, in custody, for the half-dozenth time, to make a personal application 'to purge himself of his contempt;' which, being a solitary surviving executor who has fallen into a state of conglomeration about accounts of which it is not pretended that he had ever any knowledge, he is not at all likely ever to do. In the mean time his prospects in life are ended. Another ruined suitor, who periodically appears from Shropshire, and breaks out into efforts to address the chancellor at the close of the day's business, and who can by no means be made to understand that the

chancellor is legally ignorant of his existence after making it desolate for a quarter of a century, plants himself in a good place, and keeps an eye on the judge, ready to call out 'my lord !' in a voice of sonorous complaint, on the instant of his rising. A few lawyers' clerks and others, who know the suitor by sight, linger, on the chance of his furnishing some fun, and enlivening the dismal weather a little.

"Jarndyce and Jarndyce drones on. This scare-crow of a suit has, in course of time, become so complicated that no man alive knows what it means. The parties to it understand it least ; but it has been observed, that no two chancery lawyers can talk about it for five minutes without coming to a total disagreement as to all the premises. Innumerable children have been born into the cause ; innumerable young people have married into it ; innumerable old people have died out of it. Scores of persons have deliriously found themselves made parties in Jarndyce and Jarndyce, without knowing how or why : whole families have inherited legendary hatreds with the suit. The little plaintiff or defendant, who was promised a new rocking-horse when Jarndyce and Jarndyce should be settled, has grown up, possessed himself of a real horse, and trotted away into the other world. Fair wards of court have faded into mothers and grandmothers ; a long procession of chancellors has come in and gone out ; the legion of bills in the suit have been transformed into mere bills of mortality ; there are not three Jarndyces left upon the earth, perhaps, since old Tom Jarndyce in despair blew his brains out at a coffee-house in Chancery Lane, — but Jarndyce and Jarndyce still drags its weary length before the court, perennially hopeless.

"Jarndyce and Jarndyce has passed into a joke. That is the only good that has ever come of it. It has been death to many, but it is a joke in the profession. Every master in chancery has had a reference out of it. Every chancellor was 'in it,' for somebody or other, when he was counsel at the bar. Good things have been said about it by blue-nosed, bulbous-shoed old benchers, in select port-wine committee after dinner in hall. Articled clerks have been in the habit of fleshing their legal wit upon it. The last lord chancellor handled it neatly, when, correcting Mr. Blowers, the eminent silk gown, who said that such a thing might happen when the sky rained potatoes, he observed, 'or when we get through Jarndyce and Jarndyce, Mr. Blowers,' — a pleasantry that particularly tickled the maces, bags, and purses.

"How many people out of the suit Jarndyce and Jarndyce has stretched forth its unwholesome hand to spoil and corrupt, would be a very wide question. From the master, upon whose impaling files reams of dusty warrants in Jarndyce and Jarndyce have grimly writhed into many shapes; down to the copying-clerk in the Six Clerks' Office, who has copied his tens of thousands of chancery-folio-pages under that eternal heading, — no man's nature has been made better by it. In trickery, evasion, procrastination, spoliation, botheration, under false pretences of all sorts, there are influences that can never come to good."

"Thus, in the midst of the mud and at the heart of the fog, sits the lord high chancellor in his high court of chancery."

"When we came to the court, there was the lord chancellor — the same whom I had seen in his private room in Lincoln's Inn — sitting in great state and gravity on the

bench, with the mace and seals on a red table below him, and an immense, flat nosegay, like a little garden, which scented the whole court. Below the table, again, was a long row of solicitors, with bundles of papers on the matting at their feet ; and then there were the gentlemen of the bar in wigs and gowns, — some awake and some asleep, and one talking, and nobody paying much attention to what he said. The lord chancellor leaned back in his very easy chair, with his elbow on the cushioned arm, and his forehead resting on his hand : some of those who were present dozed ; some read the newspapers ; some walked about, or whispered in groups : all seemed perfectly at their ease, by no means in a hurry, very unconcerned, and extremely comfortable.*

“To see every thing going on so smoothly, and to think of the roughness of the suitors’ lives and deaths ; to see all that full dress and ceremony, and to think of the waste, and want, and beggared misery it represented ; to consider, that while the sickness of hope deferred was raging in so many hearts, this polite show went calmly on from day to day, and year to year, in such good order and composure ; to behold the lord chancellor, and the whole array of practitioners under him, looking at one another and at the spectators as if nobody had ever heard that all over England the name in which they were assembled was a bitter jest, was held in universal horror, contempt, and indignation, was known for something so flagrant and bad that little short of a miracle could bring any good out of it to any one, — this was so curious and self-contradictory to me, who had no experience of it, that it was at first incredible ; and I could not comprehend it.

"When we had been there half an hour or so, the case in progress — if I may use a phrase so ridiculous in such a connection — seemed to die out of its own vapidness, without coming, or being by anybody, expected to come, to any result. The lord chancellor then threw down a bundle of papers from his desk to the gentlemen below him, and somebody said 'JARNDYCE AND JARNDYCE.' Upon this there was a buzz and a laugh, and a general withdrawal of the by-standers, and a bringing in of great heaps and piles, and bags and bagsful, of papers.

"I think it came on 'for further directions,' — about some bill of costs, to the best of my understanding, which was confused enough. But I counted twenty-three gentlemen in wigs, who said they were 'in it;' and none of them appeared to understand it much better than I. They chatted about it with the lord chancellor, and contradicted and explained among themselves; and some of them said it was this way, and some of them said it was that way; and some of them jocosely proposed to read huge volumes of affidavits; and there was more buzzing and laughing, and everybody concerned was in a state of idle entertainment; and nothing could be made of it by anybody. After an hour or so of this, and a good many speeches being begun and cut short, it was 'referred back for the present;' and the papers were bundled up again, before the clerks had finished bringing them in."

There does not seem to be much exaggeration in this to any one who has charge of a suit a quarter of a century old, as I have. Mine has outlasted one constitution of our State, and the constitutions of half a dozen attorneys. As there are a large number of defendants who are continually dying off, most of my efforts, since I came into the

suit six years ago, have been devoted to dragging it out of the grave. The action is to enforce a legacy. My client himself, who is only the administrator of the original plaintiff, has outlived the Almighty's statute of limitations. My own connection with the suit serves forcibly to remind me of the frail tenure of human life, and the emptiness of its pursuits. Now, in all this, there ought not to be any thing to excite derision ; but a notice of trial, on my part, is the signal for an immense amount of seepical merriment on the part of the defendants' attorneys. Some of them even go so far as to assume an air of injury, as if I were doing something unbecoming in pressing for a decision. All of them regard the litigation as a huge joke. This, too, under our system, which makes no distinction between law and equity. The inquiry arises in horribly gigantic proportions, What would become of my client's rights in chancery?

Elsewhere, in the same book, Dickens says, "The one great principle of the English law is, to make business for itself. There is no other principle distinctly, certainly, and consistently maintained through all its narrow turnings. Viewed by this light, it becomes a coherent scheme, and not the monstrous maze the laity are apt to think it. Let them but once clearly perceive that its grand principle is to make business for itself, at their expense, and surely they will cease to grumble."

The argument that the abolition of the system would entail disaster on the class of solicitors is thus set forth and answered by our author : "The respectability of Mr. Vholes has even been cited with crushing effect before parliamentary committees, as in the following blue minutes of a distinguished attorney's evidence : —

“‘*Question* (number five hundred and seventeen thousand eight hundred and sixty-nine). — If I understand you, these forms of practice indisputably occasion delay?

“‘*Answer*. — Yes, some delay.

“‘*Q.* — And great expense?

“‘*A.* — Most assuredly they cannot be gone through for nothing.

“‘*Q.* — And unspeakable vexation?

“‘*A.* — I am not prepared to say that. They have never given *me* any vexation, — quite the contrary.

“‘*Q.* — But you think that their abolition would damage a class of practitioners?

“‘*A.* — I have no doubt of it.

“‘*Q.* — Can you instance any type of that class?

“‘*A.* — Yes: I would unhesitatingly mention Mr. Vholes. He would be ruined.

“‘*Q.* — Mr. Vholes is considered, in the profession, a respectable man?

“‘*A.* (which proved fatal to the inquiry for ten years). — Mr. Vholes is considered, in the profession, a *most* respectable man.’

“So, in familiar conversation, private authorities, no less disinterested, will remark that they don’t know what this age is coming to; that we are plunging down precipices; that now here is something else gone; that these changes are death to people like Vholes, — a man of undoubted respectability, with a father in the Vale of Taunton, and three daughters at home. Take a few steps more in this direction, say they, and what is to become of Vholes’s father? Is he to perish? And of Vholes’s daughters? Are they to be shirt-makers or governesses? As though Mr. Vholes and his relations being minor

cannibal chiefs, and it being proposed to abolish cannibalism, indignant champions were to put the case thus: Make man-eating unlawful, and you starve the Vholeses!"

To my mind, there is no exaggeration in poor Miss Flite, the crazy chancery suitor who caged canary-birds, and called them the wards in chancery, naming them, Hope, Joy, Youth, Peace, Rest, Life, Dust, Ashes, Waste, Want, Ruin, Despair, Madness, Death, Cunning, Folly, Words, Wigs, Rags, Sheepskin, Plunder, Precedent, Jargon, Gammon, and Spinach. To my mind, there is no exaggeration in the story of the two wards in Jarndyce, whose hapless destinies were united by marriage, and whose earthly union was sundered by a broken heart on the day when the legal lamp in the case of Jarndyce and Jarndyce went out for want of pecuniary oil. To my mind, there is no exaggeration in the scene in which our author depicts the merriment and derision with which the bar received the intelligence that Jarndyce and Jarndyce was "over for good," and saw the papers carried out, — "bundles in bags, bundles too large to be got into any bags, immense masses of papers of all shapes and no shapes, which the bearers staggered under, and threw down for the time being, anyhow, on the hall pavement, while they went back to bring out more." And so great is the power of education, of precedent, and of habit, that to my mind, there is no exaggeration in the absurd pride with which Mr. Kenge refers to Jarndyce and Jarndyce as "a monument of chancery practice," and boasts "that on the numerous difficulties, contingencies, masterly fictions, and forms of procedure in this great cause, there has been expended study, ability, eloquence, knowledge, intellect," and that "the matured autumnal fruits

of the woolsack have been lavished upon Jarndyce and Jarndyce." It is not unnatural for lawyers to feel in this way, who are brought up under a system in which their incomes depend in a great measure upon the number of words they can employ to express an idea, and in which success is very essentially dependent on their skill and adroitness in misleading their adversaries. Still less does this work deserve the charge of exaggeration when we read in the author's preface, that "at the present moment," 1853, "there is a suit before the court which was commenced nearly twenty years ago, in which from thirty to forty counsel have been known to appear at one time ; in which costs have been incurred to the amount of seventy thousand pounds ; which is a *friendly suit*, and which is (I am assured) no nearer to its termination now than when it was begun. There is another well-known suit in chancery, not yet decided, which was commenced before the close of the last century, and in which more than double the amount of seventy thousand pounds has been swallowed up in costs." And we may be sure Mr. Dickens does not exaggerate when he assures us, in the preface, that "every thing set forth in these pages, concerning the court of chancery, is substantially true, and within the truth."

While, then, the trial scene in "Pickwick Papers" is a piece of ingenious pleasantry, the prison scene in the same work, and the whole of "Bleak House" and of "Little Dorrit," are something better and more useful. They are full of that broad and earnest humanity which is the key-note and theme of all Mr. Dickens's works, and which renders him the most engaging and influential writer of English fiction since Shakspeare.

But truth is better as well as stranger than fiction, and the most potently useful words written upon law in this century were those of the New-York Code of Procedure of 1848: "It is expedient that the present forms of actions and pleadings in cases at common law shall be abolished, that the distinction between legal and equitable remedies should no longer continue, and that an uniform course of proceeding in all cases should be established."

CHARLES READE,

in two of his later novels, "Very Hard Cash" and "Griffith Gaunt," gives long reports of imaginary law-trials. I believe that Mr. Reade has studied law, but he certainly has not drunk deep enough at the legal spring to escape blunders that would throw out a candidate for admission to the bar. For example, in "Very Hard Cash," in an action of false imprisonment, the issue being the insanity of the plaintiff, he admits the dying declaration of the plaintiff's sister to the effect that he was sane! And in "Griffith Gaunt" he admits evidence of a woman's unchastity on the question of her reputation for veracity! In the latter novel he severely satirizes what he calls the "postponement swindle." In this he also makes his heroine defend herself (successfully, of course) against an accusation of murder. All this is conveyed with great wit and power, and with a dramatic sense in which the author surpasses all his contemporaries. For the action of false imprisonment which his hero brought against the proprietor of the insane asylum, an approximate precedent may be found in real life, in *Van Deusen v. Newcomer*, 40 Mich. 90, where the Michigan supreme

court were equally divided on the question, whether the superintendent of an insane asylum, in good faith confining a person at the instance of his friends, without previous judicial determination of his insanity, is liable to such an action when it turns out that he was sane.

TROLLOPE.

If I were called on to designate the most brilliant writer of fiction of the present century, I should hesitate ; but if I were required to name the dullest, I could not hesitate a moment in awarding this voluminous writer the palm. "The Nation" once acutely said, "Flatness has always been at once Mr. Trollope's forte and foible." Trollope in fiction and Tupper in poetry, — to the mind, an inseparable pair ! Mr. Trollope's exceeding goodness does not make up for his dulness. "Orley Farm" illustrates his dealing with legal subjects. The great question is one of fact as to the genuineness of a will of Sir Joseph. The legatee was permitted to testify that her father had once told her that he hoped Sir Joseph would provide for her ; that she had always known the testator, and did not think it unnatural he should provide for her, etc.

But it is in his ethics that Mr. Trollope is strongest. He severely blames Mr. Furnival, a barrister, for espousing and advocating his clients' cause with zeal and apparent confidence, when he "knew" she had forged the will. By "knew" he simply means, suspected. "And more than this," he adds, "stranger than this, worse than this, when the legal world knew—as the legal world soon did know—that all this had been so, the legal world found no fault with Mr. Furnival, conceiving

that he had done his duty by his client in a manner becoming an English barrister and an English gentleman." This is goody-goody ; and after reading such fine sentiments we are surprised, in reading his " Life of Cicero," to note that he has nothing to say against his idol, Cicero, who once, he says, " by the happiness of a *bon mot*, brought the accused off safely, though he was manifestly guilty," and who had the craft to suppress the passage in the published editions of his speech. (Herein Cicero shows his superiority to our modern congressman, who never says any thing clever except in the " Record.") In another part of the " Life of Cicero," Mr. Trollope says, " When I look at the practice of our own times, I find that thieves and rebels are defended by honorable advocates, who do not scruple to take their briefs in opposition to their own opinions." (Pray, what have " their own opinions " to do with it?) It suited Cicero to do the same. If I were detected in a plot for blowing up a cabinet council, I do not doubt but that I should get the late attorney-general to defend me." And why not? It would go less against the grain to defend him for that than for writing such poor, dull stuff, which not even his excessive virtue can render tolerable. Cicero stands in no need of apology on this score. But I am foolish to get in a heat over Mr. Trollope.

III.

AS DEPICTED BY THE MORALISTS, ESSAY-ISTS, HISTORIANS, AND SATIRISTS.

AMMIANUS MARCELLINUS,

IN his Roman history, draws the following terrible picture of the Roman lawyers, which evidently has so much of exaggeration and fiction in its composition, that it becomes appropriate to quote it under our subject: —

“Of these the chief is that tribe of men who, sowing every variety of strife and contest in thousands of actions, wear out the doorposts of widows and the thresholds of orphans, and create bitter hatred among friends, relations, or connections who have any disagreement, if they can only find the least pretext for a quarrel. And in these men the progress of age does not cool their vices, as it does those of others, but only hardens and strengthens them. And amid all their plunder, they are insatiable and yet poor, whetting the edge of their genius in order by their crafty orations to catch the ear of the judges; though the very title of those magistrates is derived from the name of justice.

“In the pertinacity of these men, rashness assumes the disguise of freedom; headlong audacity seeks to be taken for constancy; and an empty fluency of language usurps the name of eloquence.

"There is a second class of those men, who, professing the science of the law, especially the interpretation of conflicting and obsolete statutes, as if they had a bridle placed in their mouths, keep a resolute silence, in which they rather resemble their shadows than themselves. These, like those men who cast nativities or interpret the oracles of the sibyl, compose their countenances to a sort of gravity, and then make money of their supine drowsiness. And that they may appear to have a more profound knowledge of the laws, they speak of Trebatius and Cascellius and Alfenus, and of the laws of the Aurunci and Sicani, which have long become obsolete, and have been buried ages ago with the mother of Evander. And if you should pretend to have deliberately murdered your mother, they will promise you that there are many cases recorded in abstruse works which will secure your acquittal if you are rich enough to pay for it.

"There is a third class of these men, who, to arrive at distinction in a turbulent profession, sharpen their mercenary mouths to mystify the truth, and by prostituting their countenances and their vile barking, work their way with the public. These men, whenever the judge is embarrassed and perplexed, entangle the matter before him with further difficulties, and take pains to prevent any arrangement, carefully involving every suit in knotty subtleties. When these courts, however, go on rightly, they are temples of equity: but when they are perverted, they are hidden and treacherous pitfalls; and if any person falls into them, he will not escape till after many years have elapsed, and till he himself has been sucked dry to his very marrow.

"There is a fourth and last class, impudent, saucy, and

ignorant, consisting of those men who, having left school too early, run about the corners of cities, giving more time to farces than to the study of actions and defences, wearing out the doors of the rich, and hunting for the luxuries of banquets and rich food. And when they have given themselves up to gains, and to the task of hunting for money by every means, they incite men, on any small pretence whatever, to go to law: and if they are permitted to defend a cause, which but seldom happens, it is not till they are before the judge, while the pleadings are being recited, that they begin to inquire into the cause of the client, or even into his name; and then they so overflow with a heap of unarranged phrases and circumlocutions, that from the noise and jabber of the vile medley, you would fancy you were listening to Thersites. But when it happens that they have no single allegation they can establish, they then resort to an unbridled license of abuse, for which conduct they are continually brought to trial themselves, and convicted when they have poured ceaseless abuse upon people of honor; and some of these men are so ignorant that they do not appear ever to have read any books. And if in a company of learned men the name of any ancient author is ever mentioned, they fancy it to be some foreign name of a fish or other eatable. And if any stranger asks (we will say) for Marcianus, as one with whom he is as yet unacquainted, they all at once pretend that their name is Marcianus. Nor do they pay the slightest attention to what is right; but as if they had been sold to and become the property of avarice, they know nothing but a boundless license in asking. And if they catch any one in their toils, they entangle him in a thousand meshes; pretending sickness

by way of protracting the consultations. And to produce a useless recital of some well-known law, they prepare seven costly methods of introducing it; thus weaving infinite complications and delays. And when at last days and months and years have been passed in these proceedings, and the parties to the suit are exhausted, and the whole matter in dispute is worn out with age, then these men, as if they were the very heads of their profession, often introduce sham advocates along with themselves. And when they have arrived within the bar, and the fortune or safety of some one is at stake, and they ought to labor to ward off the sword of the executioner from some innocent man, or calamity and ruin, then, with wrinkled brows, and arms thrown about with actor-like gestures, so that they want nothing but the flute of Gracchus at their back, they keep silence for some time on both sides; and at last, after a scene of premeditated collusion, some plausible preamble is pronounced by that one of them who is most confident in his power of speaking, and who promises an oration which shall rival the beauties of the oration for Cluentius or for Ctesiphon. And then, when all are eager for him to make an end, he concludes his preamble with a statement that the chief advocates have as yet only had three years since the commencement of the suit to prepare themselves to conduct it, and so obtains an adjournment, as if they had to wrestle with the ancient Antæus, while still they resolutely demand the pay due for their arduous labors.

“Finally, the profession of a lawyer, besides other things, has in it this, which is most especially formidable and serious (and this quality is almost innate in all litigants), namely, that when, through one or other out of a

thousand accidents, they have lost their action, they fancy that every thing which turned out wrong was owing to the conduct of their counsel ; and they usually attribute the loss of every suit to him, and are angry, not with the weakness of their case or (as they often might be) with the partiality of the judge, but only with their advocate."

RICHARD DE BURY,

who was under Edward III., Bishop of Durham and Lord Chancellor of England, has a chapter in his "*Philobiblon*," a treatise on the love of books, entitled "*Laws are, properly speaking, neither Sciences nor Books.*" He says, "Because the discipline of contraries is one and the same, and the reasoning power is available to opposites, and at the same time human feelings are most prone to mischief, it happens that the practitioners of this faculty indulge more in protracting litigation than in peace, and quote the law, not according to the intention of the legislator, but violently twist his words to the purpose of their own machinations." And further, that the books of civil law "are nevertheless useful things, like the scorpion in treacle," and that "the causes of laws are, for the most part, not to be discussed."

His translator, Inglis, says, in a note on this chapter, "It may be said generally, that the church and the law were never on good terms ; because lawyers were often obliged to defend themselves and others against the rapacity of the church : if they were also rapacious, the dislike between the parties would be the more confirmed. The lawyers were perhaps too prudent to write much against the church ; but the church did not spare them, as may be seen in the legends and collections of miracles.

'A lawyer had often sold his tongue when living : when he opened his mouth to take his last gasp, it disappeared.' It is to be hoped he had redeemed the rest of his body. The following ditty was found in a breviary, apparently of the thirteenth century, set to music so as to resemble the hymns : —

“ ‘Venditores labiorum
 Fleant advocati,
 Qui plus student premiorum,
 Dande quantitati,
 Quam causae qualitati;
 Ad consulta prelatorum,
 Multi sunt vocati,
 Sed electi pauci quorum,
 Adquiescat animorum,
 Virtus equitati.
 Parcunt veritati,
 Stantes causis pro reorum,
 Jus pervertunt decretorum,
 Sanctas leges antiquorum;
 Nummus obligati,
 Duplices probati,
 Mala fovent perversorum,
 Scelus operati,
 Quod attentat occultorum,
 Judex Christe non eorum
 Parcat falsitati.’ ”

Which I have endeavored to translate, or rather imitate, —

They shall weep, those labial vendors,
 Lawyers, fraud enacting;
 Striving more for what law renders
 By the suits' protracting,
 Than the right exacting.

So the church to consultation
 Calls attorneys many;
 For, despite this wide vocation,
 Moved by equity's inspiration,
 She finds hardly any.
 Destitute of verity,
 Counting lawsuits their subsistence;
 Robbing laws of all consistence,—
 Sacred laws of long existence;
 Bound by a retaining fee,
 Steeped in vile duplicity.
 Deeds of wicked men fomenting;
 Working deep iniquity
 When they seem to right consenting.
 Christ, the Judge, of their repenting
 Will not spare the falsity.

The translator's remark about the hatred of the church for lawyers reminds me that St. Ives, the advocate of the poor, was maliciously said by the priests to be the *patron*, but not the *pattern*, of the lawyers. Bercheure, too, in the "Repertorium Morale," in speaking of the croaking of frogs, compares them to lawyers: "*Tales sunt causidici et advocati quod vero isti sunt clamosi, quia clamando litigant ad invicem.*" "Philobiblon" was edited and published in an elegant form a few years ago by Judge Samuel Hand, of Albany, formerly of the Court of Appeals of this State, a gentleman whose position in the profession is so assured, that he can afford to be thought guilty of knowing something outside of law-calf.

RABELAIS.

If I were called on to specify the author, who, while he is conceded to rank among the most distinguished of all

times, is also the least read, and when read, least understood, I should unhesitatingly say Rabelais. And yet the witty Frenchman is quite explicit and unequivocal on the subject under present consideration. The procedure of his Justice Bridlegoose is too amusing not to be quoted in full : —

“For having well and exactly seen, surveyed, overlooked, reviewed, recognized, read and read over again, turned and tossed over, seriously perused and examined the bills of complaint, accusations, impeachments, indictments, warnings, citations, summonings, compositions, appearances, mandates, commissions, delegations, instructions, informations, inquests, preparatories, productions, evidences, proofs, allegations, depositions, cross-speeches, contradictions, supplications, requests, petitions, inquiries, instruments of the depositions of witnesses, rejoinders, replies, confirmations of former assertions, duplies, triples, answers to rejoinders, writings, deeds, reproaches, disabling of exceptions taken, grievances, salvation bills, re-examination of witnesses, confronting of them together, declarations, denunciations, libels, certificates, royal missives, letters of appeal, letters of attorney, instruments of compulsion, delineatories, anticipatories, evocations, messages, dismissions, issues, exceptions, dilatory pleas, demurs, compositions, injunctions, reliefs, reports, returns, confessions, acknowledgments, exploits, executions, and other such like confects and spiceries, both at the one and the other side, as a good judge ought to do, conform to what hath been noted thereupon.”

Here let us pause for breath, and to ask if there were no codifiers in those days?

“That being done,” continues Francis, “I posit on

the end of a table in my closet all the pokes and bags of the defendant, and then allow unto him the hazard of the dice, according to the usual manner of your other worships. I thereafter lay down upon the other end of the same table the bags and satchels of the plaintiff, as your other worships are accustomed to do, just over against one another. Then I do likewise seembly throw the dice for him, and forthwith liver him his chance. I give out sentence in his favor unto whom hath befallen the best chance by dice, judiciary, tribunian, pretorial, what comes first."

This learned and impartial judge being inquired of, why then he did "not deliver up these fair throws and chances the very same day and hour, without any further procrastination or delay?" and "to what use can those writings serve you, those papers and other procedures contained in the bags and pokes of the law-suitors?" makes answer, "They are behoofed unto me, and serve my turn in three things very exquisite, requisite, and authentic: first, for formality sake;" secondly, "in lieu of some other honest and healthful exercise;" and thirdly, "I defer, protract, delay, prolong, intermit, surcease, pause, linger, suspend, prorogate, drive out, wire-draw, and shift off the time of giving a definitive sentence, to the end that the suit or process, being well fanned and winnowed, tossed and canvassed to and fro, narrowly, precisely, and nearly garbled, sifted, searched, and examined, and on all hands exactly argued, disputed, and debated, may by succession of time come at last to its full ripeness and maturity. By means whereof, when the fatal hazard of the dice ensueth thereupon, the parties cast or condemned by the said aleatory chance will, with

much greater patience, and more mildly and gently, endure and bear up the disastrous load of their misfortune than if they had been sentenced at their first arrival unto the court."

Of one who settled a great many law-suits, he said, "He was no judge at all, but a right honest man."

He also has a chapter in which he likens the formation of law-suits to the growth of a bear's cub, which, at first shapeless and ugly, is licked into form by its dam. At first they consist of only one or two writings; "but when there are heaps of these legiformal papers packed, piled, laid up together, impoked, insatcheled, and put up in bags, then it is with good reason we term that a suit."

"Process," he says, "is purchase; viz., of good store of money to the lawyers, and of many pokes — *id est*, *Prou Sacks* — to the pleaders."

He was very severe on the judges, whom he called "furred law-cats," and of whom he says they "are most terrible and dreadful monsters that devour little children."

In his chapter on the "Apedepts," he satirizes certain courts of judicature. Among the monsters in this island was one which fed on Appeals, and another whose name was Review. The island was colonized from Attorneyland, and its inhabitants fed on parchment, ink-horns, and pens.

In commenting on another law-suit, he says, "Here-upon the magisters made a vow never to decrott themselves in rubbing off the dirt of either their shoes or clothes: Master Janotus with his adherents vowed never to blow or snuff their noses until judgment were given by a definitive sentence. By these vows do they continue unto this time both dirty and snotty; for the court hath

not garbled, sifted, and fully looked into all the pieces as yet. The judgment, or decree, shall be given out and pronounced at the next Greek Calends — that is, never. As you know that they do more than nature, and contrary to their own articles. The articles of Paris maintain that to God alone belongs infinity; and nature produceth nothing that is immortal, for she putteth an end and period to all things by her engendered, according to the saying, *Omnia orta cadunt*. But these thick mist-swallowers make the suits in law depending before them both infinite and immortal. In doing whereof they have given occasion to, and verified, the saying of Chilo the Lacedæmonian, consecrated to the Oracle at Delphos, that misery is the inseparable companion of law-suits; and that suitors are miserable; for sooner shall they attain to the end of their lives, than to the final decision of their pretended rights."

Against what other part soever of Rabelais' works the charge of obscurity may be sustained, it certainly cannot be brought against these animadversions on lawyers. It also seems to me, that if we may judge by the want of consistency in the decisions of some of the highest legal tribunals in this land, the custom of dice-throwing as a means of determining law-suits is by no means obsolete. The only argument against this belief is, that if the aleatory chance prevailed, their judgment would occasionally be just.

This review of Rabelais also suggests the query, whether the practice of Justice Bridlegoose may not have given rise to the phrase, "cast in law," or "cast in damages," — a problem for Mr. Richard Grant White, Dean Trench, and the other word-hunters.

MONTAIGNE

has less to say on the subject of our reading than might be expected. He asks, "What can be more outrageous than to see a nation where, by lawful custom, the office of a judge is to be bought and sold, where judgments are paid for with ready money, and where justice may legally be denied to him that has not wherewithal to pay; where this merchandise is in so great repute, as in our government, to furnish a fourth estate of wrangling lawyers, to add to the three ancient ones of the church, nobility, and people; which fourth estate, having the laws in their hands, and sovereign power over men's lives and fortunes, make a body separate from the nobility?" He complains that "the very women and children, nowadays, take upon them to school the oldest and most experienced men about the ecclesiastical laws; whereas the first of those of Plato forbid^s them to inquire so much as into the reason of civil laws, which were to stand instead of divine ordinances." He complains, too, of the fluctuation of laws, particularly in England, especially in regard to religion; and of his own country, he says, "I have known a thing that was capital to become lawful." He says that King Ferdinand, sending colonies to the Indies, "wisely provided that they should not carry along with them any law-students, for fear lest suits should get a footing in that new world; as being a science in its own nature the mother of alteration and division; judging with Plato, 'that lawyers and physicians are the pests of a country.'"¹ He very pertinently inquires, "Whence does it come to pass that our common language, so easy for all other uses, becomes

obscure and unintelligible in wills and contracts? and that he who so clearly expresses himself herein, whatever he speaks or writes, cannot find in this any way of declaring himself that he does not fall into doubt and contradiction? If it be not that the princes of this art, applying themselves with a peculiar attention to invent and cull out sounding words, and contrive artistical periods, have so weighed every syllable, and so thoroughly sifted every sort of seam, that they are now confounded and entangled in the infinity of figures, and so many minute divisions, that they can no more fall into any rule or prescription, nor any certain intelligence." He insists that glosses and commentaries only serve to obscure the text. "This is most apparent in the law; we give the authority of law to infinite doctors, infinite decisions, and as many interpretations; yet do we find any end of the need of interpreting? Is there, for all that, any progress or advancement toward peace? Do we stand in need of any fewer advocates or judges than when this great mass of law was yet in its first infancy?" On this point he is at direct variance from Dr. Johnson, who, as we have seen, believed, that as precedents multiplied, the less would be the need of lawyers. It is interesting to be told that Montaigne never had a suit. "No judge, thank God, has ever yet spoken to me in the quality of a judge." He is particularly savage on the French laws, and I judge his remarks on this point to be quite applicable to the bulk of our State legislation: "They" (the laws) "are often made by fools; more often by men that, out of hatred to equality, fail in equity; but always by men who are vain and irresolute authors. There is nothing so much, nor so grossly, nor so ordinarily faulty,

as the laws. The command is so perplexed and inconstant, that it, in some sort, excuses both disobedience and defect in the interpretation, the administration, and the observation of it." I hope the makers of our late proposed constitution will ponder this last sentence. His chapter on "Sumptuary Laws" we commend to the New-England Prohibitionists. This wise man winds it up with this weighty sentence: "No laws are in their true credit, but such to which God has given so long a continuance that no one knows their beginning, or that there ever was any other."

Of the multitude of laws he observes, "I am not much pleased with his opinion who thought by the multitude of laws to curb the authority of judges, in cutting out for them their several parcels; he was not aware that there is as much liberty and latitude in the interpretation of laws as in their form: and they but fool themselves who think to lessen and stop our disputes by recalling to us the express words of the Bible; forasmuch as the mind does not find the field less spacious wherein to controvert the sense of another, than to deliver his own; and as if there were less animosity and tartness in commentary than in invention. We see how much he was mistaken; for we have more laws in France than all the rest of the world put together, and more than would be necessary for the government of all the worlds of Epicurus: '*Ut olim flagitiis, sic nunc legibus laboramus*;' and yet we have left so much to the decisions and opinions of our judges, that there never was so full a liberty or so full a license. What have our legislators gained by culling out a hundred thousand particular cases, and by applying to these a hundred thousand laws? This num-

ber holds no manner of proportion with the infinite diversity of human actions; the multiplication of our inventions will never arrive at the variety of examples; add to these a hundred times as many more, it will still not happen, that of events to come there shall one be found that in this vast number of millions of events so chosen and recorded, shall so tally with any other one, and be so exactly coupled and matched with it, that there will not remain some circumstance and diversity which will require a diverse judgment. There is little relation between our actions, which are in perpetual mutation, and fixed and immutable laws; the most to be desired are the most rare, the most simple and general: and I am even of opinion that we had better have none at all than to have them in so prodigious number as we have. Nature always gives them better and happier than those we make ourselves; witness the picture of the Golden Age of the poets, and the state wherein we see nations live who have no other: some there are who for their only judge take the first passer-by who travels along their mountains, to determine their cause; and others, who, on their market-day, choose out some one amongst them on the spot to decide their controversies. What danger would there be that the wisest among us should so determine ours, according to occurrences, and at sight, without obligation of example and consequence?"

Of the permanence of laws: "It is a very great doubt whether any so manifest benefit can accrue from the alteration of a law received, let it be what it will, as there is danger and inconvenience in altering it."

Of the origin of laws: "Laws derive their authority from possession and use; 'tis dangerous to trace them

back to their beginning ; they grow great, and ennoble themselves, like our rivers by running : follow them upward to their source ; 'tis but a little spring, scarce discernible, that swells thus, and fortifies itself by growing old."

MORE

himself, in his youth, wrote a poem entitled "A Merry Jest: how a Sergeant would learn to play the Friar." He sets out by inculcating the idea that it is unsafe for a man to go outside his peculiar vocation, — "*ne sutor ultra crepidem*," — and applies this to lawyers and merchants : —

"A man of law
That never saw
The ways to buy and sell,
Weening to rise
By merchandise,
I pray God speed him well.
A merchant eke,
That will go seek,
By all the means he may,
To fall in suit
Till he dispute
His money clean away ;
Pleading the law
For every straw,
Shall prove a thrifty man,
With 'bate and strife,
But by my life
I cannot tell you whan."

The story is long and dull. In a word, the sergeant disguised himself as a friar, in order to procure access to a debtor in hiding, who feigned sickness, and, drawing

out his mace to enforce his process, was attacked by the debtor and his wife and maid-servant, and thrown down stairs.

More did not tolerate lawyers in his "Utopia." "They have no lawyers among them," he says, "for they consider them as a sort of people whose profession it is to disguise matters as well as to arrest laws; and, therefore, they think it is much better that every man should plead his own cause and trust it to the judge, as well as in other places the client does it to a counsellor. By this means, they both cut off many delays, and find out truth more certainly. For after the parties have laid open the merits of their cause, without those artifices which lawyers are apt to suggest, the judge examines the whole matter, and supports the simplicity of such well-meaning persons, whom otherwise crafty man would be apt to run down. And thus they avoid those evils which appear very remarkably among all those nations that labor under a vast load of laws."

SIDNEY.

While our profession are popularly accused of bad manners, it is gratifying to learn that Sir Philip Sidney, that soul of honor and entire gentleman, held us in the estimation indicated in the following extract from "An Apologie for Poetrie:"—

"And for the Lawyer, though *Jus* bee the daughter of Justice, and Justice the chiefe of Vertues, yet because hee seeketh to make men good, rather *Formidine pænæ*, than *Virtutis amore*, or to say righter, dooth not endeavor to make men good, but that their evill hurt not others; having no care so hee be a good Cittizen, how bad a man

he be. Therefore, as our wickednesse maketh him necessarie, and necessitie maketh him honorable, so is he not in the deepest trueth to stande in rancke with these, who all indeavour to take naughtines away, and plant goodnesse even in the secretest cabinet of our souls? And these foure are all that any way deale in that consideration of men's manners, which beeing the Supreme knowledge, they that best breed it deserve the best commendation."

The other three of "these foure" are the poet, the historian, and the philosopher. Pretty good company for men of bad manners, truly! Sir Philip farther on discusses the nice point whether poets are blameworthy for giving names to men they write of, and thus arguing a conceit of an actual truth: "And doth the Lawyer lye then," says he, "when under the names of *John a Stile* and *John a Noakes* hee puts his case?" But poetry, he acknowledges, may be abused, and so may law: "Dooth not knowledge of Law, whose end is to even and right all things, being abused, grow the crooked fosterer of horrible injuries?"

COSIN.

The following "Lawyer's Creed" might be in danger of being considered blasphemous if it had been written by a layman; but as the work of Dr. John Cosin, a prelate of the seventeenth century, I suppose it is entirely orthodox:—

"Credo in dominum Judicem pro arbitrio statuentem;
In Attornatum meum, omnium litium creatorem;
Et in duodecim viros in cassibus nostris nihil intelligentes.

Credo Westmonasteriensem Aulam esse Ecclesiam Catholicam;
Statua omnia, prohibitiones, decreta, et reportus, esse traditiones apostolicas;
Sed omnes lites futuras esse æternas;
Et nullam esse debitorum remissionem;
Si plus velis,
Credo omnes academias et artes humaniores esse abolendas, in secula seculorum, Amen."

As an offset, I quote the following from an early volume of "The Gentleman's Magazine," — a fitting receptacle for such enlightened sentiments: "The Portion of a Just Lawyer. Whilst he lives, he is the Delight of the Court, the Ornament of the Bar, a Pattern of Innocency, the Glory of his Profession, a Terror to Deceit, the Oracle of his Country. And when Death calls him to the Bar of Heaven, by the *De habendo corpus cum causa*, he finds the Judge his Advocate, nonsuits the Devil, and continues one of the Long Robe in Glory."

BISHOP COLLYER,

in his moral essays, has the following dialogue: —

"*Philotimus*. Pray, what is your opinion of those lawyers who appear in a foul cause?

"*Philalethes*. I think if they know it they misbehave themselves, and have much to answer for. What can be more unaccountable than to solicit against justice, and lend the credit of our character to an ill business? To throw in dilatory pleas and false suggestions, to perplex the argument or entangle the witness? To make a mercenary noise against right or reason? To misapply precedents and statutes, and draw the laws into a conspiracy,

to endeavor to surprise the judge and mislead the jury? To employ learning and lungs and elocution to such purposes as these, is to disgrace the bar, and mismanage to a high degree.

Philot. Must the counsel start at every dark appearance, and the client be dismissed at the first information? that is hard : a cause which has an ill face at first, clears up sometimes in the court, and brightens strangely upon the proceedings. This observation prevailed with Sir Matthew Hale to discharge his scruples, and practise with more freedom.

Philal. I grant this reverend judge relaxed a little, and gave his conscience more reason you mention. When his business lay at the bar, he made no difficulty to venture through suspicion and dislike : he thought it no fault to bring the matter to an issue, and try the strength of either party. But when he once found it work foul and shrink under the test, he would engage no further, nor ever encourage the keeping on the dispute.

Philot. What then : must a man turn away his clients and baulk his profession?

Philal. It is no part of a lawyer's profession to promote injustice, or help one man to that which belongs to another. The laws are made to secure property, to put an end to contests, and help those to right that suffer wrong. They were never designed to entangle matters, to perpetuate quarrels, to enrich any set of men at the damage of the community. To engage in an ill cause, when I am conscious it is so, is, in plain English, to encourage a litigious humor, to countenance a knave : it is to do my best to disseize an honest man of his birthright, and wrest his money or his land from him. If the privi-

lege of practice, if the pretence of taking a fee, will justify us in this liberty, why may not the consideration of money bear us out in other remarkable instances? Why may we not be hired for any other mischief? Why may not a physician take a fee of one man to poison another?"

BAXTER,

in his "Christian Directory," giving directions to lawyers about their duty to God, says, "Be not counsellors or advocates against God; that is, against justice, truth, or innocency. A bad cause would have no patrons if there were no bad or ignorant lawyers. It is a dear-bought fee which is got by sinning, especially by such a wilful, aggravated sin as the deliberate pleading for iniquity, or opposing of the truth. Whatever you say or do against truth and innocency and justice, you do it against God himself. And is it not a sad case, that among professing Christians there is no cause so bad but can find an advocate for a fee? I speak not against just counsel to a man that has a bad cause (to tell him it is bad and persuade him to disown it), nor do I speak against you for pleading against excessive penalties or damages; for so far your cause is good, though the main cause of your client was bad: but he that speaketh or counselleth another for the defence of sin, or the wronging of the innocent, or the defrauding another of his right, and will open his mouth to the injury of the just, for a little money, or for a friend, must try whether that money or friend will save him from the vengeance of the Universal Judge (unless faith and true repentance, which will cause confession and restitution, do prevent it). To deal freely

with you counsellors, it is a matter that they who are strangers to your profession can scarce put any fair construction upon, that the worst cause, for a little money, should find an advocate among you ! This driveth the standers-by upon this harsh dilemma, — to think that either your understandings or your consciences are very bad. If, indeed, you so little know a good cause from a bad, then it must needs tempt men to think you very unskilled in your profession. But when almost every cause, even the worst, that comes to the bar, shall have some of you for it, and some against it ; and in the palpablest causes you are some on one side and some on the other, — the strange difference of your judgments doth seem to betray your weakness. But if you know the causes to be bad which you defend, and to be good which you oppose, it more evidently betrays a deplorable conscience. I speak not of your innocent or excusable mistakes in cases of great difficulty, nor yet of excusing a cause bad in the main from unjust aggravations ; but when money will hire you to plead for injustice against your own knowledge, and to use your will to defraud the righteous, and spoil his cause, or vex him with delays for the advantage of your unrighteous client, I would not have your conscience for all your gains, nor your account to make for all the world."

I must admit, it is to be feared that lawyers are too much like other men, — no better than clergymen, for instance, either in judgment or conscience. If there is any efficacy in a particular creed, the vast majority of clergymen must be damned for not being wise enough to believe it ; and observation teaches us that they are subject to pecuniary influences, for which I do not say they are

to be blamed. We live, not in a "Saints' Rest," but in a sinful world; and Baxter is not set to scold Matthew Hale.

RICHE,

in "The Honestie of this Age, proving by good circumstance that the World was never Honest till now," has the following:—

"Shall we yet make a steppe to Westminster Hall, a little to ouer-look the lawyers? My skill is vnable to render due reuerence to the honorable judges according to their worthinesse, but especially at this instant, as the benches are nowe supplied: neyther would I eclips the honest reputation of a number of learned lawyers, that are to be held in a reuerent regard, and that are to be honoured and esteemed; yet amongst these there be a number of others that doe multiplie sutes, and drawe on quarrelles betweene friend and friend, betweene brother and brother, and sometimes betweene the father and sonne; and amongst these, although there bee some that can make good shift to send their clients home with penillesse purses, yet there be other some againe, that at the end of the tearme, doe complaine themselves that their gettings have not bin enough to defray their expences, and doe therefore thinke that men are become to be more wise in these dayes then they have beene in former ages, and had rather put uppe a wrong then fee a lawyer; but I doe not thinke there is any such wise-dome in this age, when there are so many wrangling spirits that are ready to commence suites, but for a neighbour's goose, that shall but happen to looke ouer a hedge: now what concept I have in the matter I will partly make manifest by this insuing circumstance:—

"As the worthy gentlemen that haue beene Lords Maiors of the honourable cittie of London have beene generally renowned for their wisdom in gouernment, so they have beene no lesse famed for their hospitality and good housekeeping during the time of their Maioralties. Amongst the rest, there was one who long sithens being readie to set himselfe downe to his dinner with his company that were about him, there thronged in on the sodaine a great company of strangers in that onreuerent manner as had not formerly beene accustomed, whereupon one of the officers, comming to the L. Maior, sayd onto him, 'If it please your lordship, here be too few stooles.' — 'Thou lyest, knave,' answered the Maior. 'There are too many guests.'

"Now I am perswaded that if lawyers (indeed) haue iust cause to complaine of their little gettings, it is not for that there be too few suites, but because there be too many lawyers, especially of these aturnies, solicitors, and such other petty *Foggers*, whereof there be such abundance that the one of them can hardly thrive by the other; and this multitude of them doe trouble all the partes of Englande.

"The profession of the Law I doe acknowledge to be honorable, and (I thinke) the study of it should especially belong to the better sort of gentlemen: but our Innes of Court now (for the greater part) are stuffed with the offspring of farmers, and with all other sorts of tradesmen; and these, when they haue gotten some few scrappings of the law, they do sow the seedes of suites, they doe set men at variance, and doe seeke for nothing more then to checke the course of iustice by their delatory pleas: for the better sort of the learned lawyers, I doe honour them.

"They say it is an argument of a licentious commonwealth, where Phisitians and Lawyers have too great comminges in : but it is the surfeits of peace that bringeth in the Phisitians gaine ; yet in him there is some dispatch of businesse, for if he cannot speedily cure you he will yet quickly kill you : but with the Lawyer there is no such expedition ; he is all for delay ; and if his tongue be not well typt with gold, he is so dull of language, that you shall not heare a comfortable worde come out of his mouth in a whole Michaelmasse Tearme : if you will unlocke his lips, it must be done with a golden fee ; and that perhaps may sette his tongue at libertie to speak (sometimes) to as good a purpose as if he hadde still beene mute."

He also compares the learned and liberal professions together in "*Riche his Farewell to Militarie Profession*," and estimates the law thus : "To become a student in the lawe, there are suche a number of them already that he thinkes it is not possible that one of them should honestly thrive by another ; and some will saie that one lawyer and one goshauke were enough in one shire. But of my conscience, there are more lawyers in some one shire in Englande, with attorneis, solicitors, or, as they are termed, brokers of causes, or pettie foggers, than there are goshaukes in all Norwaie."

"JACKE OF DOVER,

His Quest of Inquirie, or his Privy Search for the Veriest Foole in England," is the title of a scarce tract published about 1600, in which I find this : "There was of late (quoth another of the jurie) a ploughman and a butcher dwelling in Lancaster, who for a trifling matter

(like two fooles) went to law, and spent much money therein, almost to both their undoings ; but at last, being both consented to be tride by a lawyer dwelling in the same town, each of them, in hope of a further favour, bestowed gyftes upon him : the ploughman first of all presented him a cupple of good fat hens, desiring Mr. Lawyer to stand his good friend, and to remember his suite in law ; the which he courteously tooke at his hands, saying, that what favour he could show him, he should be sure of the uttermost. But now when the butcher heard of the presenting of these hens by the ploughman, he went and presently killed a good fatte hogge, and in like manner, presented it to the lawyer, as a bribe to draw him to his side ; the which he also tooke very courteously, and promised the like to him, as he did before to the other. But so it fell out, that shortly after, the verdict passed on the butcher's side ; which, when the ploughman had notice of, he came unto the lawyer, and asked him wherefore his two hens were forgotten? 'Marry,' quoth he, 'because there came in a fatte hogge and eate them up.' — 'Now a vengeance take that hog,' quoth the ploughman, 'that eate both my suite in law and hens together !' "

BISHOP SHERLOCK,

in his "Trial of the Witnesses," submits to a jury the Scripture account of the resurrection of Christ. The arguments on both sides are given in the form of speeches of counsel on the trial of an indictment for perjury. The jury having deliberated, —

"*Fudge.* What say you? Are the Apostles guilty of giving false evidence in the case of the resurrection of Jesus, or not guilty?"

Foreman. Not guilty.

Fudge. Very well ; and now, gentlemen, I resign my commission, and am your humble servant.

"The company then rose up, and were beginning to pay their compliments to the judge and the counsel, but were interrupted by a gentleman who went up to the judge, and offered him a fee. 'What is this?' says the judge. 'A fee, sir,' said the gentleman. 'A fee to a judge is a bribe,' said the judge. 'True, sir,' said the gentleman ; 'but you have resigned your commission, and will not be the first judge that has come from the bench to the bar, without any diminution of honour. Now, Lazarus's case is to come on next, and this fee is to retain you on his side.'"

EARLE.

Another curious book is "*Microcosmographie* ; or, A Peece of the World Discovered in Essayes and Characters," by Dr. John Earle, Bishop of Salisbury, first published in 1628. Among the characters is "an attorney : " —

"His antient beginning was a blue coat, since a livery, and his hatching under a lawyer ; whence, though but pen-feathered, he hath now nested for himself, and with his hoarded pence purchased an office. Two desks and a quire of paper set him up, where he now sits in state for all comers. We can call him no great author ; yet he writes very much, and with the infamy of the court is maintained in his libels. He has some smatch of a scholar, and yet uses Latin very hardly, and lest it should accuse him, cuts it off in the midst, and will not let it speak out. He is, contrary to great men, maintained by his followers ; that is, his poor country clients,

that worship him more than their landlord : and be they never such churls, he looks for their courtesy. He first racks them soundly himself, and then delivers them to the lawyer for execution. His looks are very solicitous, importing much haste and dispatch : he is never without his hands full of business ; that is, — of paper. His skin becomes at last as dry as his parchment, and his face as intricate as the most winding cause. He talks statutes as fiercely as if he had mooted seven years in the inns of court, when all his skill is stuck in his girdle, or in his office-window. Strife and wrangling have made him rich ; and he is thankful to his benefactor, and nourishes it. If he live in a country village, he makes all his neighbors good subjects ; for there shall be nothing done, but what there is law for. His business gives him not leave to think of his conscience, and when the time, or term of his life is going out ; for dooms-day he is secure, for he hopes he has a trick to reverse judgment."

RUGGLE,

the facetious author of "Ignoramus," has introduced some macaronic burlesques on Law Latin in that amusing play. Ignoramus himself thus recites how he will endow his mistress Rosabella : —

"Si possem, vellem pro te, Rosa, ponere pellem ;
 Quicquid tu vis, crava, et habebis singula brava ;
 Et dabo, *fee simple*, si monstras *Love's pretty dimple*.
 Gownos, silkcoatos, kirtellos, et petticoatos,
Farthingales biggos, stomacheros, et periwiggos,
 Pantofflos, cuffos, garteros, *Spanica* ruffos,
 Buskos et soccos, tiffanas, et *Cambrica* smockos,
 Pimpillos, pursos ; ad ludos ibis et ursos."

I think it would be fitter to read *canos* for *ursos*, if the husband were expected to pay for all this toggery.

In another scene, Ignoramus, perusing a legal document, breaks out to his clerk with, "O, ho ! vide hic est defaulta literæ ; emenda, emenda ; nam in nostra lege, una comma evertit totum Placitum." Describing the sway that Cupid has acquired over him, he says, "Primum cum amabam Rosabellam, nisi parvum, misit parvum Cape, tum magnum Cape, et post, alias Capias et pluries Capias, et Capias infinitas ; et sic misit tot Capias, ut tandem capavit me, ut legatum ex omni sensu et ratione mea. Cum scribo instrumentum, si femina nominatur, scribo Rosabellam ; pro Corpus cum causa, corpus cum cauda ; pro noverint universi, Amaverint universi ; pro habere ad rectum, habere ad lectum ; et sic vasto totum instrumentum."

This play, written to ridicule the Latinized English and other barbarisms of the Law, was enacted before King James, who was observed to chuckle at it. Among the actors were the gentlemen who were afterward known as Lord Hollis, the Bishop of Peterborough, the Dean of Canterbury, Earl Northampton, and Lake, Secretary of State. The ridicule was deserved, but still great men differ on the subject ; for Blackstone says, "The truth is, what is called Law Latin is really a mere technical language, calculated for eternal duration, and easy to be apprehended, both in present and future times, and on those accounts best suited to preserve those memorials which are intended for perpetual rules of action. The rude Pyramids of Egypt have endured from the earliest ages ; while the more modern and more elegant structures of Attica, Rome, and Palmyra have sunk beneath the stroke of Time."

TAYLOR.

In the works of John Taylor, the Water Poet, we find a beggar's prayer for a lawyer : —

"May the terms be everlasting to thee, thou man of tongues ; and may contentions grow and multiply ; may actions beget actions, and cases engender cases as thick as hops ; may every day of the year be a Shrove Tuesday ; let proclamations forbid fighting, to increase actions of battery ; that thy cassock may be three-piled, and the welts of thy gown may not grow threadbare !"

PEPYS.

The diarist, good Mr. Pepys, records that he went "to the office, where Mr. Prin come to meet about the Chest business ; and till company come, did discourse with me a good while in the garden about the laws of England, telling me the main faults in them" (of course, that took a good while) ; "and among others, their obscurity of long statutes, which he is about to abstract out of all of a sort ; and as he lives and parliaments come, get them put into laws, and the other statutes repealed, and then it will be a short work to know the law." What a pity Mr. Prin couldn't have been immortal ! By a singular collocation, the only other topic touched upon in this paragraph is the plague, which, he blesses God, "is decreased sixteen this week." I suppose the Mr. Prin referred to was William Prynne, who lost his ears on account of some ungallant reflections on Queen Henrietta Maria, in his screed against play-actors, entitled "*Histrio-Mastix*:" if this supposition is correct, and

Pepys correctly reports him above, he certainly could well spare something from his ears.

THOMAS FULLER,

in his character of "The Good Advocate," says, —

"He not only hears but examines his client, and pincheth the cause where he fears it is foundered. For many clients in telling their case rather plead than relate it, so that the advocate hears not the true state of it till opened by the adverse party." "If the matter be doubtful, he will only warrant his own diligence. Yet some keep an assurance office in their chamber, and will warrant any cause brought unto them, as knowing, that if they fail, they lose nothing but what long since was lost, — their credit. He makes not a Trojan siege of a suit, but seeks to bring it to a set battle in a speedy trial. Yet sometimes suits are continued by their difficulty, the potency and stomach of the parties, without any default in the lawyer." "In trivial matters, he persuades his client to sound a retreat, and make a composition. When his name is up, his industry is not down; thinking to plead, not by his study, but his credit. Commonly, physicians, like beer, are best when they are old; and lawyers, like bread, when they are young and new. But our advocate grows not lazy." "He is more careful to deserve than greedy to take fees." "Yet shall he, besides those two great felicities of common lawyers, that they seldom die either without heirs, or making a will, find God's blessing on his provisions and posterity."

These are the sentiments of a wise, just, and sensible man. From his character of "The Good Judge" we extract the following: —

"He harkens to the witnesses, though tedious."

"Many country people must be impertinent before they can be pertinent, and cannot give evidence about a hen, but first they must begin with it in the egg. All which our judge is contented to hearken to. He meets not a testimony half-way, but stays till it come at him."

"If any shall brow-beat a pregnant witness on purpose to make his proof miscarry, he checketh them, and helps the witness that labors in his delivery. On the other hand, he nips those lawyers, who, under a pretense of kindness to lend a witness some words, give him new matter, — yea, clean contrary to what he intended."

"His private affections are swallowed up in the common cause as rivers lose their names in the ocean."

QUEVEDO,

a Spanish satirist of the first half of the seventeenth century, was much given to "Visions," and in one of the Day of Judgment has the following uncomfortable allusion to lawyers: "I had to pity the eagerness with which a great crowd of notaries and lawyers was rushing by, flying from their own ears," — a long journey for some of our profession, it must be confessed, — "in order to escape hearing their own sentence: but none succeeded in this, except those who, in this present world, had had their ears cropped off as thieves; but these, owing to the neglect of justice, were by no means in the majority."

As an offset to this, I do not discover that Dante gives us any place in his "Inferno." The nearest approach to it is a reference in the argument preceding the twenty-sixth canto, as translated by Wright, to "evil counselors." But aside from the natural doubt whether that phrase

means lawyers, it does not seem to be supported by any thing in the poem,—the reporter's syllabus is not borne out by the decision. It is hardly worth while, on the other hand, to examine whether the poet gives us a place in Paradise: his age was not Christianized enough for such a stretch of charity.

SELDEN.

The learned Selden, in "Table-Talk," has an interesting section on law, in which the most striking observation is, "Ignorance of the law excuses no man; not that all men know the law, but because 'tis an excuse every man will plead, and no man can tell how to confute him."

OWEN FELTHAM,

in his "Resolves," thus expresses his opinion: "Questionless there are of this profession (the law) that are the light and wonder of the age. They have knowledge and integrity; and by being versed in books and men, in the noble acts of justice and of prudence, they are fitter for judgment and the regiment of the world than any men else that live. And their honesty, truly weighed, is the gallantest engine that they can use and thrive withal. A faithful advocate can never sit without clients; nor do I believe that man could lose by it in the close that would not take a cause he knew not honest. A goldsmith may gain an estate as well as he that trades in every coarser metal. An advocate is a limb of friendship, and farther than the altar he is not bound to go. And it is observed of as famous a lawyer as I think was then in the world, the Roman Cicero, that he was slain by one he had defended when accused for the murder of his father.

Certainly he that defends an injury is next to him that commits it. And this is recorded, not only as an example of ingratitude, but as a punishment for patronizing an ill cause. In all pleadings, foul language, malice, impertinence, and recriminations are ever to be avoided. The cause, more than the man, is to be convinced. Overpowering oratory is not ever to be practiced. Torrents of words do often bear down even trophies of truth, which does so fret and anger the party overborne, that the resort is no more to paper and pleadings, but to powder and steel."

PUCKLE.

Of James Puckle little is known save that he wrote a curious book, first published in 1711, entitled, "The Club: in a Dialogue between Father and Son," with the motto, *in vino veritas*, in which various characters are described, alphabetically, and with but one character to each letter, by the son, who tells his father that he met them at the club the night before, where they all got drunk; whereupon the father moralizes. The letter L affords an opportunity to describe a lawyer. The other characters are Antiquary, Buffoon, Critic, Detractor, Envious, Flatterer, Gamester, Hypocrite, Impertinent, Knave, Moroso, Newsmonger, Opiniator, Projector, Quack, Rake, Swearer, Traveler, Usurer, Wiseman, Xantippe, Youth, Zany. So we are placed among what cannot, on the whole, be called good company. The dialogue on Lawyer is as follows:—

"Son. A wit of the law, that made it as much his care and business to create feuds and animate differences as the Vestal Virgins used to maintain the sacred fire, growing drunk, boasted himself an attorney. That

he had a **knack** of improving trifles and frivolous contests into good, fat causes, as he called them. That he could set man and wife at variance the first day of their marriage, and parents and children the last moment of their lives. That he seldom troubled his head with Coke upon Littleton; the law lay in a little compass; trials chiefly depended upon evidence, and let him alone to deal with witnesses."

The father then tells the oyster-story, better told by Boileau, and continues, —

"Suppose it possible to fence against combination, subornation, and false evidence; can any be certain the justice of his cause shall outweigh the subtilty of his adversary's counsel?

"Will not fear, favor, bribe, and grudge,
The same cause several ways adjudge?
Do not some juries give their verdict,
As if they felt the cause, not heard it;
And witnesses, like watches, go
Just as they're set, too fast or slow?"

"The rich man that attempts at his charge to make all knaves honest will quickly see his error, or die a beggar; but the poor fool that rashly engages in a law-suit commits himself to the house of correction, where he must labor stoutly to pay his fees: in short, whoever flies to a knavish lawyer for succour, as the sheep to the bushes in a storm, must expect to leave a good part of his coat behind him. Yet still it is the quacks in the law, like those in physic, make the remedy worse than the disease. According to the proverb, good right wants good assistance; and seeing Great Britain affords so many lawyers, whose learning and integrity render them the light and

wonder of the age, he is doubly a fool, that, to defend his right, applies himself to a scab."

The edition of *Puckle's Club*, from which I quote, is charmingly illustrated with wood-cuts, after designs by Thurston; and the passage cited is preceded by a vignette exhibiting "a limb of the law bribing a witness."

ADDISON

has some pleasant reflections on law in No. 564 of "*The Spectator*," introduced by this apposite quotation from Horace:—

"Adsit

*Regula, peccatis quæ pœnas irroget aequas,
Ne scutica dignum horribili sectere flagello."*

Among other things he observes, "The very same action may sometimes be so oddly circumstanced that it is difficult to determine whether it ought to be rewarded or punished. Those who compiled the laws of England were so sensible of this that they have laid it down as one of their first maxims, 'It is better suffering a mischief than an inconvenience;' which is as much as to say in other words, that since no law can take in or provide for all cases, it is better private men should have some injustice done them than that a public grievance should not be redressed. This is usually pleaded in defense of all those hardships which fall on particular persons in particular occasions, which could not be foreseen when a law was made. To remedy this, however, as much as possible, the court of chancery was erected which frequently mitigates and breaks the teeth of the common law, in cases of men's properties; while in

criminal cases there is a power of pardoning still lodged in the crown."

This about the court of chancery in England sounds like a grim joke. For "breaks the teeth" read "picks the teeth," and one gets nearer the truth, for chancery does not demolish the common law's grinding power; but if any crumb or fragment of an estate or controversy still sticks to the teeth of the common law, chancery carefully cleans them out, and the suitor too.

This paper concludes with the anecdote from Plutarch of the Spartan youth, who, being in the bath when his city was attacked, rushed out naked, and was greatly instrumental in routing the enemy. For his gallantry he was rewarded by the magistrates with a garland; but for going to battle unarmed, he was fined a thousand drachmas.

In No. 577 is found "The humble petition of John a Noakes and John a Styles. Showeth, that your petitioners have had causes depending in Westminster Hall above five hundred years, and that we despair of ever seeing them brought to an issue; that your petitioners have not been involved in these law-suits out of any litigious temper of their own, but by the instigation of contentious persons; that the young lawyers in our inns of court are continually setting us together by the ears, and think they do us no hurt because they plead for us without a fee; that many of the gentlemen of the robe have no other clients besides us two; that when they have nothing else to do they make us plaintiffs and defendants, though they were never retained by either of us; that they traduce, condemn, or acquit us without any regard to our reputations and good names in the world.

Your petitioners, therefore, being thereunto encouraged by the favorable reception which you gave to our Kinsman Blank, do humbly pray that you will put an end to the controversies which have been so long depending between us your said petitioners, and that our enmity may not endure from generation to generation ; it being our resolution to live hereafter as becometh men of peaceable dispositions."

The reference to "our Kinsman Blank" is explained by reverting to No. 563, a letter of complaint written by "Blank," the postscript of which is quite in point : —

"P. S. — I herewith send you a paper drawn up by a country attorney, employed by two gentlemen, whose names he was not acquainted with, and who did not think fit to let him into the secret which they were transacting. I heard him call it a 'blank instrument,' and read it after the following manner. You may see by this single instance of what use I am to the busy world : —

"I, T. Blank, Esquire, of Blank town, in the county of Blank, do own myself indebted in the sum of Blank to Goodman Blank, for the services he did me in procuring me the goods following, Blank ; and I do hereby promise the said Blank to pay unto him the said sum of Blank, on the Blank day of the month of Blank next ensuing, under the penalty and forfeiture of Blank."

In No. 372 (by Steele) is a communication from one describing an evening passed at "a lawyers' club," the tendency of which he complains is "to increase fraud and deceit." He says, "Every one proposes the cause he has then in hand to the board, upon which each member gives his judgment according to the experience he has met with. If it happens that any one put a case of

which they have had no precedent, it is noted down by their clerk, Will Goosequill (who registers all their proceedings), that one of them may go the next day with it to a counsel. This, indeed, is commendable, and ought to be the principal end of their meeting; but had you been there to have heard them relate their methods of managing a cause, their manner of drawing out their bills, and, in short, their arguments upon the several ways of abusing their clients, with the applause that is given to him who has done it most artfully, you would before now have given your remarks upon them."

In No. 21 Addison reflects "upon the three great professions of divinity, law, and physic; how they are, each of them, overburdened with practitioners, and filled with multitudes of ingenious gentlemen that starve one another."

He pays his compliments to us as follows: "The body of the law is no less encumbered with superfluous members, that are like Virgil's army, which he tells us was so crowded many of them had not room to use their weapons. This prodigious society of men may be divided into the litigious and peaceable. Under the first are comprehended all those who are carried down in coachfuls to Westminster Hall every morning in term-time. Martial's description of this species of lawyers is full of humor: '*Iras et verba locant.*' 'Men that hire out their words and anger,' — that are more or less passionate according as they are paid for it, and allow their client a quantity of wrath proportionate to the fee which they receive from him. I must, however, observe to the reader, that above three parts of those whom I reckon among the litigious are such as are only quarrelsome in

their hearts, and have no opportunity of showing their passion at the bar. Nevertheless, as they do not know what strifes may arise, they appear at the hall every day, that they may show themselves in readiness to enter the lists whenever there shall be occasion for them. The peaceable lawyers are, in the first place, many of the benchers of the several inns of court, who seem to be the dignitaries of the law, and are endowed with those qualifications of mind that accomplish a man rather for a ruler than a pleader. These men live peaceably in their habitations, eating once a day, and dancing once a year, for the honor of their respective societies. Another numberless branch of peaceable lawyers are those young men, who, being placed at the inns of court in order to study the laws of their country, frequent the playhouse more than Westminster Hall, and are seen in all public assemblies except in a court of justice."

We might well take comfort to ourselves if we met with no severer critic than the gentle Addison.

SWIFT.

Gulliver, in the "*Voyage to the Houyhnhnms*," gives the following caustic account of law and lawyers:—

"There was a society of men among us, bred up from their youth in the art of proving, by words multiplied for the purpose, that white is black, and black is white, according as they are paid. To this society all the rest of the people are slaves. For example, if my neighbor has a mind to my cow, he has a lawyer to prove that he ought to have my cow from me. I must then hire another to defend my right,—it being against all rules of law that any man should speak for himself. Now,

in this case, I, who am the right owner, lie under two great disadvantages: first, my lawyer, being practiced almost from his cradle in defending falsehood, is quite out of his element when he would be an advocate for justice, which is an unnatural office he always attempts with great awkwardness, if not with ill-will. The second disadvantage is, that my lawyer must proceed with great caution, or else he will be reprimanded by the judges, and abhorred by his brethren, as one who would lessen the practice of the law. And therefore I have but two methods to preserve my cow. The first is, to gain over my adversary's lawyer with a double fee, who will then betray his client by insinuating that he has justice on his side. The second way is, for my lawyer to make my cause appear as unjust as he can, by allowing the cow to belong to my adversary; and this, if it be skilfully done, will certainly bespeak the favor of the bench. Now, your honor is to know that these judges are persons appointed to decide all controversies of property, as well as for the trial of criminals, and picked out from the most dexterous lawyers, who are grown old or lazy, and having been biased all their lives against truth and equity, lie under such a fatal necessity of favoring fraud, perjury, and oppression, that I have known some of them refuse a large bribe from the side where justice lay, rather than injure the faculty by doing any thing unbecoming their nature or their office. It is a maxim among these lawyers, that whatever has been done before may legally be done again; and therefore they take special care to record all the decisions formerly made against common justice and the general reason of mankind. These, under the name of precedents, they produce as authorities

to justify the most iniquitous opinions ; and the judges never fail of directing accordingly. In pleading, they studiously avoid entering into the merits of the cause, but are loud, violent, and tedious in dwelling upon all circumstances which are not to the purpose. For instance, in the case already mentioned, they never desire to know what claim or title my adversary has to my cow, but whether the said cow were red or black, her horns long or short, whether the field I graze her in be round or square, whether she was milked at home or abroad, what diseases she is subject to, and the like ; after which they consult precedents, adjourn the cause from time to time, and in ten, twenty, or thirty years come to an issue. It is likewise to be observed, that this society has a peculiar cant and jargon of their own, that no other mortal can understand, and wherein all their laws are written, which they take special care to multiply ; whereby they have confounded the very essence of truth and falsehood, of right and wrong : so that it will take thirty years to decide whether the field left me by my ancestors for six generations belongs to me, or a stranger three hundred miles off. In the trial of persons accused for crimes against the State, the method is much more short and commendable : the judge first sends to sound the disposition of those in power, after which he can easily hang or save a criminal ; strictly preserving all forms of law."

In the "Voyage to Brobdingnag," Swift makes the king inquire as to courts of law : "Upon what I said in relation to our courts of justice, his majesty desired to be satisfied in several points ; and this I was the better able to do, having been formerly almost ruined by a long

suit in chancery, which was decreed for me with costs." He asked "what time was usually spent in determining between right and wrong, and what degree of expense? Whether advocates and orators had liberty to plead in causes manifestly known to be unjust, vexatious, or oppressive? Whether party, in religion or politics, were observed to be of any weight in the scale of justice? Whether those pleading orators were persons educated in the general knowledge of equity, or only in provincial, national, and other local customs? Whether they or their judges had any part in framing those laws which they assumed the liberty of interpreting and glossing upon at their pleasure? Whether they ever had, at different times, pleaded for and against the same cause, and cited precedents to prove contrary opinions? Whether they were a rich or a poor corporation? Whether they received any pecuniary reward for pleading, or delivering their opinions? And particularly, whether they were ever admitted as members in the lower senate?"

He also makes the king afterward say that he has proved "that laws are best explained, interpreted, and applied by those whose interest and abilities lie in perverting, confounding, and eluding them."

In speaking of the laws of that country, he says no one of them "must exceed in words the number of letters in their alphabet, which consist only of two and twenty. But indeed few of them extend even to that length. They are expressed in the most plain and simple terms, wherein those people are not mercurial enough to discover above one interpretation; and to write a comment upon any law is a capital crime."

In treating of the way in which they unravel plots in Laputa, and of the concealed significance of sundry signs and emblems in treasonable communications, he says a broken reed stands for a court of justice.

It is supposed that Swift's hostility to lawyers was owing to the vexatious prosecutions of the printers and publishers of his "Drapier Letters."

BISHOP Warburton,

in speaking of the character of Cicero, in "The Divine Legation of Moses," observes, "As an orator he was an advocate for his client, or more properly, personated him. Here, then, without question, he was to feign and dissemble his own opinions, and to speak those of his client. And though some of those who call themselves casuists have held it unlawful for an advocate to defend what he thinks an ill cause, yet I apprehend it to be the natural right of every member of society, whether accusing or accused, to speak freely and fully for himself, and if, either by a legal or natural incapacity, this cannot be done in person, to have a proxy provided or allowed by the state to do for him what he can not or may not do for himself. I apprehend that all states have done it, and that every advocate is such a proxy. Tully, therefore, feigning or dissembling his own opinions under this character, acted, I say, neither a weak nor an unfair part."

JOHNSON.

Sam Johnson had some good ideas about law as about most other subjects. When the goose, Boswell, said to him, that "a gay friend had advised him against being a lawyer, because he would be excelled by plodding block-

heads," the great man replied, "Why, sir, in the formulary and statutory part of law, a plodding blockhead may excel; but in the ingenious and rational part of it, a plodding blockhead can never excel." He called the study of the law copious and generous. His opinions on the morality of a lawyer's receiving fees, and acting for a cause which he knows to be bad, are too familiar to our profession to justify quoting them here, and were dictated by the good sense of a true moralist. Johnson was himself no mean lawyer, as is shown by his argument furnished to Boswell on Vicious Intromission. His supposition, however, that with the increase of precedents, the less occasion there would be for lawyers, is hardly borne out by experience: on the contrary, the more numerous the precedents, the greater seems the need of a class of expert reasoners to explain and distinguish them.

Johnson says elsewhere, "To hiss a pleader at the bar would perhaps be deemed illegal and punishable."

BURKE.

Burke attributed the untractable spirit of the American colonists in a large measure to their general study of law. In his speech on Conciliation with America, he says, —

"This study renders men acute, inquisitive, dexterous, prompt in attack, ready in defence, full of resources. In other countries, the people, more simple, and of a less mercurial cast, judge of an ill principle in government, only by an actual grievance: here they anticipate the evil, and judge of the pressure of the grievance by the badness of the principle. They augur misgovernment at a distance, and snuff the approach of tyranny in every tainted breeze."

LADY DUFFERIN,

in a lively letter to Miss Berry, relating her experience in recovering some stolen property, gives us some pleasant views of the administration of criminal law.

"Altogether, my Old-Bailey recollections are of the most pleasing and gratifying nature. It is true that I have only got back three pairs and a half of stockings, one gown, and two shawls ; but that is but a trifling consideration in studying the glorious institutions of our country. We were treated with the greatest respect and ham sandwiches, and two magistrates handed us to the carriage. For my part, I could not think we were in the *criminal* court, as the law was so uncommonly *civil*. . . . We have gone through two examinations in court ; they were very hurrying and agitating affairs : and I had to kiss either the Bible or the magistrate, I don't recollect which ; but *it* smelt of thumbs. . . . I find that the idea of *personal property* is a fascinating illusion ; for our goods belong, in fact, to our country, and not to us ; and that the petticoats and stockings I have fondly imagined *mine*, are really the petticoats of Great Britain and Ireland. I am now and then indulged with a distant glimpse of my most necessary garments in the hands of different policemen, but in this stage of the proceedings, may do no more than wistfully recognize them. Even on such occasions the words of justice are, 'Policeman B, 25, produce *your* gowns.' 'Letter A, 36, identify *your* lace.' 'Letter C, tie up *your* stockings.' All this is harrowing to the feelings, but one cannot have every thing in this life. We have obtained *justice*, and can easily wait for a change of linen."

DE TOCQUEVILLE,

in "Democracy in America," makes some interesting observations on lawyers in the United States, and a comparison between them and French advocates. He says, "In visiting the Americans and studying their laws, we perceive that the authority they have intrusted to numbers of the legal profession, and the influence which these individuals exercise in the government, is the most powerful existing security against the excesses of democracy." And again: "The more we reflect upon all that occurs in the United States, the more shall we be persuaded that the lawyers, as a body, form the most powerful, if not the only, counterpoise to the democratic element." This statement is singularly at variance with Burke, who, as we have seen, attributes the birth and growth of American independence and freedom in a great measure to the influence of legal studies and pursuits among the people. Further: "The special information which lawyers derive from their studies insures them a separate rank in society, and they constitute a sort of privileged body in the scale of intellect. This notion of their superiority perpetually recurs to them in the practice of their profession: they are the masters of a science which is necessary, but which is not very generally known; they serve as arbiters between the citizens, and the habit of directing to their purpose the blind passions of parties in litigation inspires them with a certain contempt for the judgment of the multitude." "The English and American lawyers investigate what has been done; the French advocate inquires what should have been done; the former produce precedents, the latter

reasons. A French observer is surprised to hear how often an English or American lawyer quotes the opinion of others, and how little he alludes to his own ; while the reverse occurs in France. There the most trifling litigation is never conducted without the introduction of an entire system of ideas peculiar to the counsel employed, and the fundamental principles of law are discussed in order to obtain a perch of land by the decision of the court. This abnegation of his own opinion, and this implicit deference to the opinion of his forefathers, which are common to the English and American lawyer, this servitude of thought which he is obliged to profess, necessarily give him more timid habits and more conservative inclinations in England and America than in France." If our author were now alive he would recognize the need of adding a note to this text, to acknowledge the change which years have wrought, in this country at least. The maxim *stare decisis* has had its day ; and now we are called on instead to stare at the decisions of our highest courts, which alter the rule of law on any given point every year. Nay, even from one term of court to another, and that on the gravest constitutional questions, before the highest legal tribunal of our land. The "opinion of our forefathers" seems to have lost its potency. Sheridan's father once counselled him to take a wife : "Whose wife shall I take?" replied the witty profligate. So now, if we look for a precedent, we may well ask, considering their contrariety, which one shall we stand by? Our law-books are subject to the reproach which some infidels allege against the Bible, — you can prove any doctrine by them. That De Tocqueville was right to some extent in his idea that French lawyers are

less attentive to precedents than others, must be admitted. Nothing can exceed the license, turbulence, and uncertainty of French trials, even in these times. Witness the celebrated trial of Prince Pierre Bonaparte for the murder of Victor Noir. "The Nation" newspaper says of it, "The examination or cross-examination of counsel is unknown in France, that duty being reserved to the court; and dexterity in it is one of the qualifications of a good judge. But the result is, that there are no rules of evidence. Every thing that has the remotest connection with the case is welcome, hearsay of all kinds included; and the witnesses mix up their opinions with their facts somewhat in the style of a parlor narrative, broken by attempts on the part of the judge to trip the narrator up, or point out the moral of what he is saying, or indicate the course which virtue ordained under the circumstances described. Considering that every pains was taken to make the trial decorous and solemn, the report suggests some amusing speculation as to what would have been the nature of the proceedings had Rochefort's demand in the chambers been complied with, and the prince been 'tried by the people.'"

Our author also says, "In America there are no nobles or literary men, and the people are apt to mistrust the wealthy: lawyers consequently form the highest political class, and the most cultivated portion of society. They have nothing to gain by innovation, which adds a conservative interest to their natural taste for public order. If I were asked where I place the American aristocracy, I should reply, without hesitation, that it is not among the rich, who are united by no common tie, but that it occupies the judicial bench and bar." "The lawyers of the

United States form a party which is but little feared and scarcely perceived, which has no badge peculiar to itself, which adapts itself with great flexibility to the exigencies of the time, and accommodates itself without resistance to all the movements of the social body. But this party extends over the whole community, and penetrates into all the classes which compose it: it acts upon the country imperceptibly, but finally fashions it to suit its own purposes." Since De Tocqueville's day a great body of literary men has sprung up in this country, and the monopoly of the legal profession over political offices is at an end. There is now a great fourth estate, composed of platform-lecturers, authors, and notably of editors, who gather a large share of political honors. Within a few years we have witnessed the novel spectacle of the second of the most lucrative offices in the gift of the General Government bestowed on a novelist, and a historian has lately represented us at the court of St. James. The man selected to go to England and defend the cause of our government against the doctrine of secession, was chosen more for his shining abilities as a platform-lecturer, than even his elevated reputation as a clergyman. We construct senators and governors, even, out of wholesale grocers, shoemakers, and country general-store-keepers; and iron-founders and cotton-manufacturers sit in the lower House of Congress. The day, then, is gone by for lawyers to monopolize political preferment; but they may still lead and dictate the policy of our government, provided they are counsellors and not pettifoggers.

NAPOLEON.

This great law-giver had some funny ideas about lawyers and law-suits. The latter, he said, were "an absolute leprosy, a social cancer. My code had singularly diminished law-suits, by placing numerous causes within the comprehension of every individual. But there still remained much for the legislator to accomplish. Not that I could hope to prevent men from quarrelling, — this they have done in all ages ; but I might have prevented a third party in society from living upon the quarrels of the other two, and even stirring up disputes to promote their own interest. It was therefore my intention to establish the rule that lawyers should never receive fees except when they gained causes. Thus what litigations would have been prevented ! On the first examination of a cause, a lawyer would have rejected it had it been at all doubtful. There would have been no fear that a man, living by his labor, would have undertaken to conduct a law-suit from mere motives of vanity ; and if he had, he himself would have been the only sufferer in case of failure."

These are despotic ideas, and go far to demonstrate that lawyers flourish only under free institutions. It is but a step from this to the despotism of Persia, under which the emperor's physician is slain unless he cures the sick emperor. Napoleon was wise to depress our profession, for if he had not done so we should doubtless have deposed him. But he had not learned to distinguish between simplifying the law, and degrading and hampering its administrators. His code did the former : the latter was consistent with the arbitrary rule that muzzled the press and interdicted free speech.

LAMB.

The two most tenderly beloved names in English literature — Goldsmith and "the gentle Elia" — have dealt mercifully with lawyers. One of the latter's most charming essays is "The Old Benchers of the Inner Temple." It is difficult to believe that its characters are wholly ideal; but such is the truth, it is said, except that Samuel Salt really lived, and so far from being a wolf among lambs, was a benefactor to the Lamb family. The Old Benchers, it must be remembered, were those who had the best seats at table. Let us make a few extracts: —

"The terrace is indeed left which we used to call the parade, but the traces are passed away of the footsteps which made its pavement awful! It has become common and profane. The Old Benchers had it almost sacred to themselves, in the fore-part of the day at least. They might not be sided or jostled. Their air and dress asserted the parade. You left wide spaces betwixt you when you passed them. We walk on even terms with their successors. The roguish eye of J—ll, ever ready to be delivered of a jest, almost invites a stranger to vie a repartee with it. But what insolent familiar durst have mated Thomas Coventry? whose person was a quadrate, his step massy and elephantine, his face square as the lion's, his gait peremptory and path-keeping, indivertible from his way as a moving column, the scarecrow of his inferiors, the brow-beater of equals and superiors, who made a solitude of children wherever he came, for they fled his insufferable presence as they would have shunned an Elisha bear. His growl was as thunder in their ears, whether he spake to them in mirth or in rebuke; his invi-

tatory notes being indeed of all most repulsive and horrid. Clouds of snuff, aggravating the natural terrors of his speech, broke from each majestic nostril, darkening the air. He took it, not by pinches, but a palmful at once, diving for it under the mighty flaps of his old-fashioned waistcoat pocket ; his waistcoat red and angry ; his coat dark rappee, tintured by dye original, and by adjuncts, with buttons of obsolete gold. And so he paced the terrace.

“By his side a milder form was sometimes to be seen, the pensive gentility of Samuel Salt. They were coevals, and had nothing but that and their benchership in common. In politics Salt was a Whig, and Coventry a staunch Tory. Many a sarcastic growl did the latter cast out — for Coventry had a rough, spinous humor — at the political confederates of his associate, which rebounded from the gentle bosom of the latter like cannon-balls from wool. You could not ruffle Samuel Salt.

“S. had the reputation of being a very clever man, and of excellent discernment in the chamber-practice of the law. I suspect his knowledge did not amount to much. When a case of difficult disposition of money, testamentary or otherwise, came before him, he ordinarily handed it over, with a few instructions, to his man Lovel, who was a quick little fellow, and would despatch it out of hand, by the light of natural understanding, of which he had an uncommon share. It is incredible what repute for talents S. enjoyed by the mere trick of gravity. He was a shy man : a child might pose him in a minute — indolent and procrastinating to the last degree. Yet men would give him credit for vast application, in spite of himself. . . . Yet S. was thought by some of the great-

est men of his time a fit person to be consulted, not alone in matters pertaining to the law, but in the ordinary niceties and embarrassments of conduct, — from force of manner entirely. He never laughed.

"With Coventry and with Salt in their walks upon the terrace, most commonly Peter Pierson would join to make up a third. They did not walk linked arm-in-arm in those days, 'as now our stout triumvirs sweep the streets,' but generally with both hands folded behind them for state, or with one at least behind, the other carrying a cane. P. was a benevolent but not a prepossessing man."

Then follow portraits of Barrington, among whose accounts of his year's treasurership was the charge, "Item, disbursed Mr. Allen, the gardener, twenty shillings, for stuff to poison the sparrows, by my orders;" Wharry, "attenuated and fleeting," whose gait, "three steps and a jump," was accounted for as "a trial of poisoning;" and Mingay, who, having lost his right hand, supplied it with an iron hook, with which, I suppose, he grappled with ugly causes. In introducing these antiques he says, "Lawyers, I suppose, were children once." Among Lamb's intimates were two lawyers, — the slovenly Martin Burney, to whom Charles said, "If dirt were trumps, what hands you would hold!" and Crabb Robinson, to whom announcing with glee his first retainer, he replied, "Thou great first cause, least understood." His account of a lawyer, in a letter to Mrs. Haslett, is probably a good-humored satire. This imaginary barrister contended that the word "heir" must, in the law-courts, be pronounced *hayer*, and "thought it might even vitiate a cause if the counsel pronounced it otherwise."

COLERIDGE,

in "Table-Talk," has this chapter on "Duties and Needs of an Advocate:" "There is undoubtedly a limit to the exertions of an advocate for his client. He has a right, it is his bounden duty, to do every thing which his client might honestly do, and to do it with all the effect which any exercise of skill, talent, or knowledge of his own may be able to produce. But the advocate has no right, nor is it his duty, to do that for his client which his client *in foro conscientiæ* has no right to do for himself; as for a gross example, to put in evidence a forged deed or will, knowing it to be so forged. As to mere confounding witnesses by skilful cross-examination, I own I am not disposed to be very strict. The whole thing is perfectly well understood on all hands; and it is little more, in general, than a sort of cudgel-playing between the counsel and the witness, in which I think I have seen the witness have the best of it as often as his assailant. It is of the utmost importance in the administration of justice, that knowledge and intellectual power should be, as far as possible, equalized between the crown and the prisoner, or plaintiff and defendant. Hence especially arises the necessity for an order of advocates, men whose duty it ought to be to know what the law allows and disallows, but whose interest should be wholly indifferent as to the persons and characters of their clients. If a certain latitude in examining witnesses is, as experience seems to have shown, a necessary means toward the evisceration of the truth of matters of fact, I have no doubt, as a moralist, in saying that such latitude, within the bounds now existing, is justifiable." "Still, I think, that

upon the whole, the advocate is placed in a position unfavorable to his moral being, and indeed to his intellect also in its higher powers. Therefore I would recommend an advocate to devote some part of his leisure time to some study of the metaphysics of the mind, or metaphysics of theology, — something, I mean, which shall call forth all his powers, and centre his wishes in the investigation of truth alone, without reference to a side to be supported. No studies give such a power of distinguishing as metaphysical; and in their natural and unperturbed tendency, they are ennobling and exalting. Some such studies are wanted to counteract the operation of legal studies and practice, which sharpen indeed, but like a grinding-stone, narrow while they sharpen." It would be difficult to conceive any thing that grows broader with sharpening.

LANDOR.

Walter Savage Landor, in his "Imaginary Dialogues," thus makes Gen. Lacy discourse of law to Cura Merino : —

"To talk of France is nugatory : England, then, where more causes are tried within the year than among us within ten, has only twelve judges, criminal and civil, in her ordinary courts. A culprit, or indeed an innocent man, may lie six months in prison before his trial, on suspicion of having stolen a petticoat or pair of slippers. As for her civil laws, they are more contradictory, more dilatory, more complicated, more uncertain, more expensive, more inhumane, than any now in use among men. They who appeal to them for redress of injury suffer an aggravation of it ; and when justice comes down at last, she alights on ruins. . . . Law in England, and in most

other countries of Europe, is the crown of injustice, burning and intolerable as that hammered and nailed upon the head of Zekkler, after he had been forced to eat the quivering flesh of his companions in insurrection. In the statutes of the North American United States, there is no such offence as libel upon the government ; because in that country there is no worthless wretch whose government leads to or can be brought into contempt. This undefined and undefinable offence in England hath consigned many just men and eminent scholars to poverty and imprisonment, to incurable maladies, and untimely death. Law, like the Andalusian bull, lowers her head and shuts her eyes before she makes her push ; and either she misses her object altogether, or she leaves it immersed in bloodshed. . . . The faultiness of the English laws is not complained of nor pointed out exclusively by the speculative or the sanguine, by the oppressed or the disappointed : it was the derision and scoff of George the Second, one of the bravest and most constitutional of kings. 'As to our laws,' said he, 'we pass near a hundred every session, which seem made for no other purpose but to afford us the pleasure of breaking them.' "

EDWARD EVERETT

had a great admiration for our profession, for one who was educated as a clergyman. He says, "The lawyer must be able to reason from the noblest principles of human duty, and the most generous feelings of human nature ; he must fully comprehend the mighty maze of the social relations ; he must carry about with him a stock of learning almost boundless ; he must be a sort

of god to men and communities, who look up to him in the dearest peril of their lives and fortunes ; and he must, at the same time, be conversant with a tissue of the most senseless fictions and arbitrary technicalities that ever disgraced a liberal science."

His remarks on the engrossing nature of our professional duties are quite appreciative : "He passes his days in his office, giving advice to clients, often about the most uninteresting and paltry details of private business, or in arguing over the same kind of business in court ; and when it comes night, and he gets home, tired and harassed, instead of sitting down to rest or to read, he has to study out another perplexing cause for the next day, or go before referees, or attend a political meeting and make a speech, while every moment which can be regarded in any degree at leisure time is consumed by a burdensome correspondence. Besides this, he has his family to take care of. It is plain that he has no more leisure for the free and improving cultivation of his mind, independent of his immediate profession, than if he had been employed the same number of hours in mechanical or manual labor. I have no doubt there are many, of very respectable standing, who do not, in any branch of knowledge not connected with their immediate profession, read the amount of an octavo volume in the course of a season."

He might have added, if he had known the profession as well as I do, that there is a great deal of "loafing" done by them. Valuable hours are wasted at the "post-office" (that's where we usually tell our wives we are going, after supper), or at the tavern, and even in our offices, with our heels higher than our heads. To

such the example of Everett might be recommended, who always carried a classic in his pocket for perusal while in the water-closet. An eminent lawyer of this State, formerly a judge of our highest court, found time to make himself one of the ablest microscopists in the country; and I know another who has become well versed in history, literature, and science, by the habit of burning the gas all night over the head of his bed, and occupying his wakeful hours with a book.

IRVING,

in the history of New York, records a wise judgment given in a law-suit by Gov. Wouter Von Twiller. Wandle Van Schoonhoven claimed a balance of account against Barent Bleecker. The governor despatched his constable for the defendant, armed with his jack-knife as summons, and his tobacco-box as warrant. The parties produced their books of account. "The sage Wouter took them one after the other, and having poised them in his hands, and attentively counted over the number of leaves, fell straightway into a very great doubt, and smoked for half an hour without saying a word:" at length he gave it as his decision; that inasmuch as the books were of the same thickness and weight, the accounts were balanced, the parties should exchange receipts, and the constable pay the costs. This adjudication diffused general joy throughout New Amsterdam, and not another law-suit took place during the whole of his administration.

The author records that the province was governed without laws, and recommends the example, on the ground that laws excite the obstinacy of men, and that

unless they were continually warned that certain things are wrong, they would do right out of pure ignorance, and because they knew no better.

He also has an admirable chapter on the jurisprudence of William the Testy: "Among the wrecks and fragments of exalted wisdom which have floated down the stream of time from venerable antiquity, and been picked up by those humble but industrious wights who fly along the shores of literature, we find a shrewd ordinance of Charondas, the Locrian legislator. Anxious to preserve the judicial code of the state from the additions and amendments of country members, and seekers of popularity, he ordained that whoever proposed a new law should do it with a halter about his neck; whereby, in case his propositions were rejected, they just hung him up: and there the matter ended.

"The effect was, that for more than two hundred years there was but one trifling alteration in the judicial code; and legal matters were so clear and simple that the whole race of lawyers starved to death for want of employment. The Locrians, too, being freed from all incitement to litigation, lived very lovingly together, and were so happy a people that they make scarce any figure in history; it being only your litigious, quarrelsome, rantipole nations who make much noise in the world.

"I have been reminded of these historical facts in coming to treat of the internal policy of William the Testy. Well would it have been for him had he, in the course of his universal acquirements, stumbled upon the precaution of the good Charondas, or had he looked nearer at home, at the protectorate of Oloff the Dreamer, where the community was governed without laws. Such

legislation, however, was not suited to the busy, meddling mind of William the Testy. On the contrary, he conceived that the true wisdom of legislation consisted in the multiplicity of laws. He accordingly had great punishments for great crimes, and little punishments for little offences. By degrees the whole surface of society was cut up by ditches and fences, and quickset hedges of the law, and even the sequestered paths of private life so beset by petty rules and ordinances, too numerous to be remembered, that one could scarce walk at large without the risk of letting off a spring-gun, or falling into a man-trap.

“In a little while the blessings of innumerable laws became apparent, — a class of men arose to expound and confound them. Petty courts were instituted to take cognizance of petty offences, pettifoggers began to abound; and the community was soon set together by the ears.

“Let me not be thought as intending any thing derogatory to the profession of the law, or to the distinguished members of that illustrious order. Well am I aware that we have in this city innumerable worthy gentlemen, the knights-errants of modern days, who go about redressing wrongs and defending the defenceless, not for the love of filthy lucre, or the selfish cravings of renown, but merely for the pleasure of doing good. Sooner would I throw this trusty pen into the flames, and cork up my ink-bottle forever, than infringe, even for a nail’s-breadth, upon the dignity of these truly benevolent champions of the distressed. On the contrary, I allude merely to those caitiff scouts, who in these latter days of evil, infest the skirts of the profession, as did the recreant Cornish

knights of yore the honorable order of chivalry; who under its auspices commit flagrant wrongs; who thrive by quibbles, by quirks and chicanery, and like vermin, increase the corruption in which they are engendered.

"Nothing so soon awakens the malevolent passions as the facility of gratification. The courts of law would never be so crowded with petty, vexatious, and disgraceful suits, were it not for the herd of pettifoggers. These tamper with the passions of the poorer and more ignorant classes, who, as if poverty were not a sufficient misery in itself, are ever ready to embitter it by litigation. These, like quacks in medicine, excite the malady to profit by the cure, and retard the cure to augment the fees. As the quack exhausts the constitution, the pettifogger exhausts the purse: and as he who has once been under the hands of a quack is forever after prone to dabble in drugs, and poison himself with infallible prescriptions, so the client of the pettifogger is ever after prone to embroil himself with his neighbors, and impoverish himself with successful law-suits. My readers will excuse this digression into which I have been unwarily betrayed: but I could not avoid giving a cool and unprejudiced account of an abomination too prevalent in this excellent city, and with the effects of which I am ruefully acquainted; having been nearly ruined by a law-suit which was decided against me, and my ruin having been completed by another, which was decided in my favor."

"PICTURES OF THE FRENCH;

A series of literary and graphic delineations of French character, by Jules Janin, Balzac, Cormenin, and other celebrated French authors," is a very entertaining book,

embracing a variety of characters, from peers to pensioners, including attorneys, judges, and law-students. I make a few extracts from the sketch of "The Attorney," by Altaroche : —

"It might seem, at first sight, that the French attorney exercises one of those patent professions which can be known and understood by such of the public at large as will merely take the trouble to look and listen. This supposition is the more natural, as the profession is created and regulated by the law, which everybody is supposed to know. Such however is not the case — at least in Paris. There the attorney is not the slave of the legal text, but rather the proprietor, with all the proprietary rights of use and abuse. We might almost say, considering the animosity with which he tortures it, that he is its executioner. The country attorney has simply to follow set forms : the Paris attorney is compelled to invent and imagine."

"An attorneyship in Paris is not a possession for life, but merely a transitory employment. It is only in the country that a man dies an attorney. In Paris an attorney's office is a kind of park-preserve, well laid out, abounding with game, in which it is necessary to purchase a license to hunt for fortune. His game-bags being well filled, the sportsman resigns his snares and the key to the first comer."

"The head clerk buys an attorneyship in order to marry ; the attorney sells in order to raise the expenses of commencing a chase after fortune."

During his courtship he is a dandy ; after marriage, a sloven. His office, always at his residence, is fitted up with great elegance, and is a lounging-place for gossips,

who bring him business out of gratitude. His head clerk generally knows more law than his principal. Most of his copying is done by students, without remuneration, who write "vaudevilles destined to be refused by the Follies Dramatiques, or love-letters to the milliner's girls round the corner."

"In his summary the Parisian attorney complicates the proceedings as much as possible, while the country attorney generally tries to simplify them. To attain his end, the provincial attorney takes the shortest way ; while the Paris attorney makes a long detour, well knowing that to him the road is not sown with thorns and flints. He introduces the utmost possible number of pleadings into the same cause : he crowds proceeding upon proceeding, suit upon suit. He not only goes through all the formalities necessary to the affair in hand, but complicates it in every way that the law directly or indirectly authorizes. In a word, his talent consists in extracting from a suit all that is legally possible, and in making every squeeze advantageous to himself."

Then follows an account of the manner in which the French attorneys get up their pleadings. The folio system prevails ; and if a pleading is reasonably only twenty-five folios in length, they insert in the middle a parcel of manuscript, which they keep on hand for the purpose, and serve the whole on the opposite attorney, and charge for serving — say seventy-five folios. The opposite attorney removes the injected manuscript, and sends it back in his answer, making a similar charge. And so this shuttlecock is kept flying to and fro, and nobody suffers but the suitors.

Then we have a narrative of how a partition suit is managed : —

"The *licitation* is the legal sale of an estate that cannot be divided. For instance, a house in Paris descends in heritage to two brothers. It being impossible to divide it into two portions, the brothers apply conjointly to an attorney to have it legally sold. In such a case the attorney's business would appear to be of the simplest nature. The two parties being agreed, it would only be necessary to procure the assent of the court to a judgment drawn up by himself, authorizing the *licitation*, or legal sale, after going through the usual forms.

"But widely different is the Parisian attorney's interpretation of his duty. So simple a proceeding would not produce a sufficiently long bill of costs. Our attorney's way of going to work is as follows: Having received the written request of the two brothers, who have but one will, one common wish, namely, to sell as soon as possible, and share the proceeds, the attorney draws up the demand for *licitation* at Peter's request: Paul offers no opposition, — far from it. But no matter: our attorney fictitiously selects for Paul another attorney, and under the name of this colleague, who kindly lends his signature (such being the custom), serves himself as Peter's attorney, with a request to hinder the *licitation* in the name of Paul.

"The reasoning urged in this process cannot be otherwise than illusory, for a *licitation* is never opposed by the law: therefore it is only an affair of form, to which no great importance is attached. The second clerk has in store an abundance of consecrated phrases for this fictitious opposition.

"In the request that he draws up in the name of the opposing Paul, he says, 'You must be aware, and unfor-

unately it is an observation but too well founded, that at the present moment all business is stagnant, in consequence of the existing commercial crisis. Paris in particular has especial reason to complain of the sad effects it produces. Time was when the capitalist sought with avidity for eligible investments in houses; but now that the rage for joint-stock companies has made such rapid advances, complete discredit has fallen on all that does not offer tempting advantages to speculators and stock-jobbers: buyers are therefore at a discount; and houses, any more than land, cannot be disposed of even at the most deteriorated price,' etc.

"Now comes Peter's turn. Peter replies to Paul's plea by a rejoinder; and the same clerk, after having manufactured the demand, is charged with the reply. He makes Peter speak in such terms as the following:—

"Our opponent is in error, and completely mistaken in his view of the actual state of business. Joint-stock companies have fallen into complete discredit; capital is flowing back into solid and substantial investments, exempt from the risk and hazard of speculative commerce; and confidence is universal. It would be a difficult task to find a more propitious moment to effect an advantageous sale of houses, landed property,' etc.

"We need not say that this theme may be varied at will to the same tune, and that under the pen of the second clerk, similar phrases may be spun out to an indefinite length, so as to produce two voluminous requests. Formulæ, consisting of a certain number of pages each, according to the importance of the *licitation*, are in use. If the property be of small value, the style of the request is rapid and concise as that of Paul Louis Courrier: on

the contrary, if the price is considerable, the style of the request is diffuse and inflated as that of Victor Ducange or Salvandy.

"A suppositious exchange of summonses then ensues between Paul and Peter, who, after a certain time, find to their amazement that they have unconsciously sustained a formal lawsuit! Singular litigants! who, without the slightest difference of opinion, have contested in the judicial arena till their worthy attorney has exhausted his fictitious combinations."

In the chapter on "The Court of Assize," by Cormenin, are some severe remarks on public prosecutors and judges: —

"Little do they understand their office and their calling who debase the magistrate in the man, the actor, the partisan. They do not arraign the prisoner; they plead, they bawl, they rave, they rage with invective; now they arrange the folds of their black drapery in studied folds, to accuse with elegance, as the gladiators of Rome studied the attitude in which they should gracefully await the death-stroke; now they mimic the gesture and voice of a tragedy-king, and fancy they are making an effect when they are only making a noise.

"Erect at the bar, with a countenance flaming with animation, they command the jury, seated at their feet: they perplex them with gesticulation, they stun them with vociferation. I have seen jurors shut their eyes and stop their ears at the approach of these storms of rhetoric — of these deafening clamors. Pity, oh! pity for the jury, if not for the prisoners!"

"But when reality takes the place of fiction, when these same spectators sit as jurymen in court, when it

is their verdict which is to kill or acquit, their thoughts assume a graver color. They bid the giddy fancies, which queen it in the brain, keep out. They have no ears but for the calmer voice of reason, no eyes but for the fact, no thought but for the thoughts of the prisoner; they question his every feature; they anxiously scrutinize his answers, — his contradictions, his ejaculations, his emotions, his smiles, his pale countenance, his chill shudder. There they sit in the presence of God, of man, and of that sacred Truth which they would fain lay hold on, which they search, they demand, they implore. Waken them not from so holy a meditation: the rhetoric of all your orators is not worth a good man's conscience. No: they mistake their calling, who, as counsel for the crown, are forever straining their sinews and their jaws to stilt up a heinous crime on the shoulders of a trifling misdemeanor. They mistake their calling who dress up their common truisms of morality in the jingle of poetic rodomontade, and who would scare the public if public vengeance does not fall on the veriest trifles. They mistake their calling who apostrophize the prisoner, inveigh against his counsel, and browbeat his witnesses. They mistake their calling who do not frankly abandon the prosecution when the evidence has brought out the innocence of the accused, but who persist in the demand of punishment, lessened by one degree. They mistake their calling who stimulate and excite the jury, the court, and the audience by their impassioned metaphors, their frantic appeals to political sympathies, their rolling eyes and threatening gestures — to earn the wretched satisfaction of having it said, 'How powerfully he has spoken! How eloquent he has been!'

“The duties of that higher branch of the magistracy which occupies the bench are not less numerous than those of the lower branch which pleads at the bar. I know of no office more sacred, more solemn, or more august than that of the chief judge of the assize. The assemblage of his powers represents the triple sway of might, religion, and justice. He unites the triple authority of the king, the priest, and the judge. How high an opinion ought a magistrate placed in so eminent a situation — perhaps the first in society — to have of himself, that is to say, of his proper duties, in order to discharge them worthily. With what sagacity must he connect the thread of evidence, broken a hundred times by the tortuous skill of the advocate. To bring out truth from the contradictions of the witnesses ; to compare the oral with the written evidence ; to combine the analogous points of the case ; to cut short doubts ; to urge the questions ; to lay hold of every circumstance, every fact, every letter, every admission, every exclamation, every word, every gesture, every look, every tone of voice, which may give a clue to the truth ; to interrogate the prisoner with gentle firmness ; to exhort him to confession and repentance ; to raise his fainting spirits ; to warn him when he is committing himself ; to direct him when he proceeds ; to restrain the counsel for the crown and for the prisoner within the bounds of propriety, without checking their rightful liberty ; to explain to the jury the points of law ; to give the witnesses full time to reflect, and to give their answers clearly ; to keep a respectful silence in the court, — these are the manifold duties of the president of a court. Happy is he who can understand them — who can discharge them. But the great stumbling-block of the judge

is the summing up of the evidence. To sum up is to give a clear account of the facts ; to go over the evidence on either side ; to examine what has been said in support of the charge, and in behalf of the prisoner, and nothing but what has been said ; and to place before the jury, with logical simplicity, the questions to which their verdict is to be the answer. All summing up ought to be precise, firm, full, impartial, and short.

“But there are judges who loll in their chairs as if they were taking their ease : there are judges who sketch pen-caricatures of the people in court, who twine their fingers through their curls, who pass all the pretty women in court in review with their eye-glass, who intimidate the prisoner by the harsh and imperious brevity of their questions, who affront and put out the witnesses, bully the counsel, and provoke the jury. Some are ridiculous, and others impertinent ; but there are some who are worse than either, — those who give way to all their passions, as men or as partisans. They rush into the strife of politics, their weapons in their hand, their finger on the trigger ; they open upon the jury all the batteries of the accusation ; they throw into the shade the defence ; they lump the facts of the case together, instead of clearing them up ; they expatiate upon times and places and persons and characters and opinions wholly foreign to the cause ; they want to court the government, or a coterie, or a personage ; they hint that what the jury still consider as a mere charge is, in their eyes, a convicted crime ; they point out its obvious commission and its imminent danger ; they quibble with law and flourish with rhetoric ; they supply fresh arguments, which they invent, to those which he, the public ac-

cuser, has left untouched, and excuse themselves by saying such is the language of the indictment ; though the indictment says nothing of the sort, and they add a falsehood to their shame.

“Fancy the position of a prisoner who has been refreshed, who has been restored, by the courageous and persuasive language of his counsel, only to be felled to the earth by the terrible weight of the judge’s charge ! The jury, too ! the jury might be upon their guard against the vehemency of an accuser, who was only doing his daily work, and of the counsel for the prisoner, because theirs was avowedly partial language ; but what protection is there against the hand that holds the impartial beam of justice ? — against the judge, who ought simply to report upon the cause, without letting his own opinions transpire, without disclosing the man under the robe of the magistrate ?

“The jury have no vast and practiced powers of memory to retain, to compare, to arrange, and to judge the conflicting arguments bandied from side to side. What with the excitement of their feelings, and the fatigue of their duties, they yield, as all plain men do, to the last impression they have received. If that last impression be given under the form of a reiterated accusation, how heavy a weight must lie upon the conscience of that jury ! how great a peril on the head of that prisoner !”

The last two paragraphs are applicable to other countries than France, and to other judges than French judges. Those judges who seem to regard themselves as helpers of the people’s attorney, and to fear that they themselves suffer reproach if a prisoner is acquitted, may well ponder these sentiments.

EMERSON.

In the essay on Eloquence, which forms a chapter of Ralph Waldo Emerson's volume entitled "Society and Solitude,"—a book full of wisdom expressed in a most honeyed style,—are a few remarks on lawyers: "There is a petty lawyer's fluency, which is sufficiently impressive to him who is devoid of that talent; though it be, in so many cases, nothing more than a facility of expressing with accuracy and speed what everybody thinks and says more slowly, without new information, or precision of thought, but the same thing, neither less nor more."

"In a court of justice the audience are impartial: they really wish to sift the statements, and know what the truth is. And in the examination of witnesses there usually leap out, quite unexpectedly, three or four stubborn words or phrases, which are the pith and fate of the business, which sink into the ear of all parties, and stick there, and determine the cause. All the rest is repetition and qualifying; and the court and the country have really come together to arrive at these three or four memorable expressions, which betrayed the mind and meaning of somebody."

"I remember, long ago, being attracted by the distinction of the counsel and the local importance of the cause, into the court-room. The prisoner's lawyers were the strongest and cunningest lawyers in the commonwealth. They drove the attorney for the state from corner to corner, taking his reasons from under him, and reducing him to silence, but not to submission. When hard pressed, he revenged himself in turn on the judge, by requiring the court to define what salvage was. The

court, thus pushed, tried words, and said every thing it could think of to fill the time, supposing cases, and describing duties of insurers, captains, pilots, and miscellaneous sea-officers, that are, or might be — like a schoolmaster puzzled by a hard sum, who reads the context with emphasis. But all this flood not serving the cuttlefish to get away in, — the horrible shark of the district attorney being still there, grimly awaiting with his ‘the court must define,’ — the poor court pleaded its inferiority. The superior court must establish the law for this; and it read away piteously the decisions of the supreme court, but read to those who had no pity. The judge was forced at last to rule something, and the lawyers saved their rogue under the fog of a definition. The parts were so well cast and discriminated, that it was an interesting game to watch. The government was well enough represented. It was stupid; but it had a strong will and possession, and stood on that to the last. The judge had a task beyond his preparation, yet his position remained real: he was there to represent a great reality, — the justice of states, which we could well enough see beetling over his head, and which his trifling talk nowise affected, and did not impede, since he was entirely well-meaning.”

“The statement of the fact, however, sinks before the statement of the law, which requires immeasurably higher powers, and is a rarest gift, being in all great masters one and the same thing; in lawyers, nothing technical, but always some piece of common sense, alike interesting to laymen as to clerks. Lord Mansfield’s merit is the merit of common sense. It is the same quality we admire in Aristotle, Montaigne, Cervantes, or in Samuel Johnson, or Franklin. Its application to law

seems quite accidental. Each of Mansfield's famous decisions contains a level sentence or two which hit the mark. His sentences are not always finished to the eye, but are finished to the mind. The sentences are involved ; but a solid proposition is set forth, a true distinction is drawn. They come from and they go to the sound human understanding ; and I read without surprise that the black-letter lawyers of the day sneered at his 'equitable decisions,' as if they were not also learned. This, indeed, is what speech is for, — to make the statement," etc.

HAWTHORNE,

in the "English Note-book," makes a visit to a British court of justice : "I was in the crown court on Saturday, sitting in the sheriff's seat. The judge was Baron —, an old gentleman of sixty, with very large, long features. His wig helped him to look like some strange kind of animal, very queer, but yet with a sagacious, and on the whole beneficent, aspect. During the session some mischievous young barrister occupied himself with sketching the judge in pencil ; and, being handed about, it found its way to me. It was very like and very laughable, but hardly caricatured. The judicial wig was an exceedingly odd affair ; and as it covers both ears, it would seem intended to prevent his lordship, and justice in his person, from hearing any of the case on either side, that thereby he may decide the better. It is like the old idea of blindfolding the statue of justice.

"It seems to me, there is less formality, less distance, between the judge, jury, witnesses, and bar, in the English courts than in our own. The judge takes a very

active part in the trial, constantly asking a question of the witness on the stand, making remarks on the conduct of the trial, putting in his word on all occasions, and allowing his own sense of the matter in hand to be pretty plainly seen : so that before the trial is over, and long before his own charge is delivered, he must have exercised a very profound influence over the minds of the jury. All this is done, not without dignity, yet in a familiar kind of way. It is a sort of paternal supervision of the whole matter, quite unlike the cold awfulness of an American judge. But all this may be owing partly to the personal characteristics of Baron ——. It appears to me, however, that from the closer relations of all parties, truth was likely to be arrived at and justice to be done. As an innocent man, I should not be afraid to be tried by Baron ——."

A charming sketch, truly, and suggesting a novel idea of the English courts. Hawthorne's experience of American courts was probably confined to Massachusetts, where a good deal of state and dignity prevails.

We could not expect any thing commonplace from our great romancist ; and so, when he walks through the garden of Clement's Inn, it seems quite in keeping that he "remembered that Justice Shallow was of old a student there."

He attended court again, and remarks, "The lawyers, as far as aspect goes, seemed to me inferior to an American bar, judging from their countenances, whether as intellectual men or gentlemen. Their wigs and gowns do not impose on the spectator, though they strike him as an imposition. Their day is past."

Sydney Smith entertained similar views of wigs and

gowns. He said, "The Americans are the first persons who have discarded the tailor in the administration of justice, and his auxiliary, the barber, — two persons of endless importance in the codes and laws of Europe. A judge administers justice without a colorific wig and parti-coloured gown, in a coat and pantaloons. We have doubts whether one atom of useful influence is added to men in important situations by any color, quantity, or configuration of cloth and hair."

JOHN HILL BURTON,

in "The Book Hunter," gives a view of the "peculiar cant and jargon" of the Scottish law, as contrasted with that of the English: —

"When one has been at work among interlocutors, suspensions, tacks, wadsets, multiplepointings, adjudications in implement, assignations, infestments homologations, charges of horning, quadrennium utiles, vicious intromissions, decrees of putting to silence, conjoint actions of declarator and reduction-improbation, the brain, being saturated with these and their kindred, becomes refreshed by crossing the border of legal nomenclature, and getting among common recoveries, demurrers, quare impedit, tails-male, tails-female, docked tails, latitats, avowries, nihil dicit, cestuis qui trusts, estoppels, essoigns, darrien presentments, emparlances, mandamuses, qui tams, capias ad faciendums or ad withernam, and so forth. After vexatious interlocutors in which the Lord Ordinary has refused interim interdict, but passed the bill to try the question, reserving expenses; or has repelled the dilatory defences, and ordered the case to the roll for debate on the peremptory defences; or has

taken to avizandum; or has ordered re-revised condescendence and answers on the conjoint probation; or has sisted diligence till caution be found, *judicio sisti*; or has done nearly all these things together in one breath, — it is like the consolation derived from meeting a companion in adversity, to find that at Westminster Hall, ‘In *fermedon*, the tenant having demanded a view after a general imparlance, the demandant issued a writ of *petit cape* — held irregular.’ ”

I am glad this was so held; for if such things are regular and normal, I should pity the English lawyers.

OLIVER WENDELL HOLMES,

the wittiest man in America, thus discourses of lawyers, in that delightful book, “The Poet at the Breakfast Table:” —

“The lawyers are the cleverest men, the ministers are the most learned, and the doctors are the most sensible. The lawyers are a picked lot, ‘first scholars’ and the like; but their business is as unsympathetic as Jack Ketch’s. There is nothing humanizing in their relations with their fellow-creatures. They go for the side that retains them. They defend the man they know to be a rogue, and not very rarely throw suspicion on the man they know to be innocent. Mind you, I am not finding fault with them: every side of a case has a right to the best statement it admits of; but I say, it does not tend to make them sympathetic. Suppose, in a case of *Fever v. Patient*, the doctor should side with either party according to whether the old miser or his expectant heir was his employer. Suppose the minister should side with the Lord or the Devil, according to the salary offered, and other inciden-

tal advantages, where the soul of a sinner was in question. You can see what a piece of work it would make of their sympathies. But the lawyers are quicker-witted than either of the other professions, and abler men generally. They are good-natured ; or if they quarrel, their quarrels are above-board. I don't think they are as accomplished as the ministers, but they have a way of cramming with special knowledge for a case, which leaves a certain shallow sediment of intelligence in their memories about a good many things. They are apt to talk law in mixed company : and they have a way of looking round when they make a point, as if they were addressing a jury, that is mighty aggravating ; as I once had occasion to see when one of 'em, and a pretty famous one, put me on the witness-stand at a dinner-party once."

This is a magnanimous, and on the whole, a pretty just estimate. Law is the science of reason, and reason has little in common with the sympathies. That is the true reason why lawyers are less sympathetic than physicians, and less emotional, not to say hysterical, than clergymen. But the Doctor makes a mistake in assuming that lawyers often know, or even suspect, that their clients are wrong ; and he does them an inadvertent injustice in charging that their throwing suspicion on the innocent is not very rare. The lawyer almost always believes his client right and innocent. His honest zeal for his client generally outruns his client's zeal for himself. The lawyer is always angry or chagrined when he is beaten, and it frequently takes him years to be able to see why he was beaten. Guilty clients never confess. Clients hardly ever divulge the whole truth of a business transaction. Beforehand they can always prove every thing "by forty witnesses ;"

when the time comes, the lawyer is frequently puzzled to prove any thing by anybody. The lawyer's honest zeal is necessary to his success, or to his ability to present his client's case with any degree of skill or power. If the counsel of Dr. Webster, professor at the same medical school with Dr. Holmes, had not thoroughly believed his client innocent of the murder of Dr. Parkman, he never could have defended him with such superb ability. As to the comparative learning of the professions, I am inclined to express it thus : The clergyman knows a good deal of a considerable number of things ; the physician knows a great deal more of a smaller number of things ; the lawyer knows a little of a great many more things than either.

IV.

AS DEPICTED BY THE POETS.

JUVENAL,

In his Seventh Satire, draws the following picture of the Roman lawyers, their fees, their state, and their revelries : the translation is by Charles Dryden, son of "glorious John : " —

"Next show me the well-lung'd Civilian's gain,
 Who bears in triumph an artillery train
 Of chancery libels ; opens first the cause,
 Then with a pick-lock tongue perverts the laws ;
 Talks loud enough in conscience for his fee,
 Takes care his client all his zeal may see ;
 Twitch'd by the sleeve, he mouths it more and more,
 Till with white froth his gown is slaver'd o'er.
 Ask what he gains by all his lying prate,
 A captain's plunder trebles his estate.
 The magistrate assumes his awful seat :
 Stand forth, false Ajax, and thy speech repeat,
 Assert thy client's innocence ; bawl and tear
 So loud thy country judge at least may hear,
 If not discern ; and when thy lungs are sore,
 Hang up the victor's garland at thy door.
 Ask for what price thy venal tongue was sold, —
 A rusty gammon of some sev'n years old,
 Tough, withered cabbage, ropy wine, a dish
 Of shotten herrings, or stale, stinking fish.

For four times talking, if one piece thou take,
 That must be cantled, and the judge go snack.
 'Tis true, Emilius takes a fivefold fee,
 Though some plead better, with more law than he;
 But then he keeps his coach, six Flanders mares
 Draw him in state, whenever he appears;
 He shows his statues, too, where plac'd on high
 The ginnett [jenett?], underneath him, seems to fly;
 While with a lifted spear, in armor bright,
 His aiming figure meditates a fight.
 With arts like these, rich Matteo, when he speaks,
 Attracts all fees, and little lawyers breaks."

He then depicts a needy attorney : —

"Tongillus, very poor, has yet an itch
 Of gaining wealth by feigning to be rich;

 Nor can I wonder at such tricks as these :
 The purple garments raise the lawyer's fees,
 And sell him dearer to the fool that buys.

 Not Tully now could get ten groats by pleading,
 Unless the diamond glittered on his hand :
 Wealth's all the rhetoric clients understand."

HORACE,

in the Fifth Satire of the second book, has a humorous dialogue between Ulysses and Tiresias, in which the latter gives the former some useful hints about earning an easy living, by being appointed the beneficiary of rich old men, of which I offer the following translation : —

In truth I've told you, and tell you again,
 Put trust in wills of moribund old men;
 Though one or two escape by biting off the bait,
 Relinquish not your hope, nor quit the art, but wait.

In every suit that's at the bar contested,
 Or small or great, you should be interested;
 If any rich and childish rogue should supplicate
 The law against the good, be thou his advocate;
 Despise the man of purer cause and life,
 If he has a son at home or fruitful wife.
 "Quintus," or "Publius" (prefixes charms will lend
 To ears polite), "your virtue has made me your friend:
 I causes plead of substance various,
 And guide through legal quirks precarious;
 And any one shall sooner snatch my eyes,
 Than cheat a nut's worth, or your cause despise.
 My care's to keep you safe from loss or jest."
 Bid him go home, and nurse himself, and rest.
 Be his solicitor, steadfastly persevere,
 By summer or by winter, heat or cold, whene'er
 Unseasoned statues split with glaring Sirius,
 Or Alps are spued upon with snow by greasy Furius.¹

"Do you not see," says one, jogging his neighbor,
 "How sharp he is, how lavish of his labor?"
 By such acute inventions you shall clients fleece:
 More tunnies swimming in, your fish-ponds shall increase.
 If any affluent man an ailing son shall rear—
 Lest too much complaisance should make your plot appear,
 Crawl humble, in the hope of being second heir;
 And if the boy should die by casualty,
 Perchance your name may fill the vacancy.
 Whoever offers you his will t' peruse,
 Seem to decline the parchment, and refuse;
 But if you're quick, you'll catch, with sidelong squint,
 From the first page a pretty certain hint
 Of what's in th' second clause—if you take all,
 Or only are co-heir with several.

¹ Furius, in a poem on the Gallic war, had said, "*Jupiter hibernas cana nive conspuet Alpes.*"

A lawyer, bailiff-born and old, will sometimes cheat
The gaping, greedy raven, and his purse deplete;
And Coranus will laugh at Nasica's defeat.

PETRONIUS ARBITER.

I find that this author has a good deal to say about law and lawyers. "Cerberus, forensis erat causidicus," has been thus translated : —

"Sure Cerberus a lawyer first must be,
Whose clam'rous mouth would open for a fee;
But since whene'er he wrangl'd, still he had
Three specious reasons for the noise he made, —
To please his client, to inform the court,
And to gain riches for his own support, —
Therefore he's doom'd in hell three heads to bear,
And in his mouth three howling tongues to wear,
That the loud eloquence he once could boast,
To his own interest, but his client's cost,
Might now be turn'd to dreadful howls and yelps,
The snarling language of illiterate whelps;
And tho' on earth no other bribe but gold
Would make the pleader for his client scold,
Yet now in hell a greasy sop must be,
Instead of coin, the growling puppy's fee."

In his First Satire, one of the characters, having had his coat stolen, is advised to resort to law to recover it : —

"Law bears the name, but money has the power :
The cause is bad whene'er the client's poor.
Those strict-life'd men that seem above our world,
Are oft too modest to resist our gold,
So judgment, like our other wares, is sold;
And the grave knight that nods upon the laws,
Wak'd by a bribe, smiles, and approves the cause."

But he is afraid of the law, and is "clear for buying it, though we know it to be our own, and rather recover the treasure with a little money than embroil ourselves in an uncertain suit."

CHAUCER.

Chaucer described a lawyer as one of the Canterbury Pilgrims : —

"A Sergeant of the Lawe, ware and wise,
That often hadde yben at the paruis,¹
Ther was also, ful riche of excellence.
Discrete he was, and of gret reverence :
He semed swiche,² his wordes were so wise,
Justice he was ful often in assise,
By patent, and by pleine commissioun ;
For his science, and for his high renoun,
Of fees and robes had he many on.
So grete a pourchasour was nowher non.
All was fee simple to him in effect,
His pourchasing might not ben in suspect.
No wher so besy a man as he ther n'as,
And yet he semed besier than he was.
In termes hadde he cas and domes³ alle,
That fro the time of king Will. werèn falle.
Therto he coude endite, and make a thing,
Ther coude no wighte pinche⁴ at his writing.
And every statute coude he plaine by rote.
He rode but homely in a medlee cote,
Girt with a seint⁵ of silk, with barres smale.
Of his array tell I no lenger tale."

What a vivid description ! especially the touch, "seemed busier than he was."

¹ Parvis, church portico. ² Such. ³ Opinions. ⁴ Find flaw. ⁵ Girdle.

ROBERT CROWLEY.

"The voyce of the laste Trumpet, blowen by the seventh Angel (as is mentioned in the eleventh of the Apocalips), callyng al estate of men to the ryght path of theyr vocation; wherein are conteyned xii lessons to twelve severall estats of men; which, if they learne and folowe, al shall be wel, and nothing amis," is a book printed in London in 1550, and so scarce that I have never been able to find a copy in this country, and have become acquainted with it only by seeing a copy quoted in an old catalogue at fifteen pounds, and some extracts cited in Brydges' *Restituta*. The lessons are addressed respectively to beggars, servants, yeomen, lewd priests, scholars, learned men, physicians, lawyers, merchants, gentlemen, magistrates, and women. The following is a portion of "The Lawiar's Lesson:" —

"Nowe come hither, thou manne of Lawe,
And marcke what I shall to the saye;
For I intend the for to drawe
Out of thy most ungodly waye.
Thy calling is good and godly,
If thou wouldste walke theren aryght;
But thou art so passying gredy,
That God's fear is out of thy syght.
Thou desirest so to be alofte,
That thy desyre can have no staye:
Thou hast forgotten to go soft,
Thou art so hasty on thy way.
But now I call the to repent,
And thy gredines to forsake;
For God's wrath is agaynst the bent,
If thou wilt not my warnyng take.

Fyrst, call unto thy memorye
 For what cause the Laws wer fyrst made;
 And then apply the busily
 To the same ende to use thy trade.
 The Lawes were made, undoubtedly,
 That al such men as are oppreste,
 Myght in the same fynde remedy,
 And leade their lyves in quiet reste.
 Dost thou then walke in thy callyng?
 When for to vex the innocent
 Thou wilt stande at a barre, ballyng,
 Wyth all the craft thou canst invente.
 I saye ballyng — for better name
 To have it cannot be worthe;
 When lyke a beast, without al shame,
 Thou wilt do wrong to get money."

JOSHUA SYLVESTER

dedicated the following sonnet to Chancellor Egerton:—

THE LAW.

"Most humbly shewes to thy great worthiness
 (Great moderator of our Britain lawes),
 The muses abject (subject of distress)
 How long wrong-vext, in a not needless cause,
 Not at the King's Bench, but the Penny-less,
 By one, I Want (the son of simpleness):
 Unable morē to greaze the scraping paws
 Of his Attorney Shift, or oil the jaws
 Of his (dear) counsell, Sergeant Pensiveness,
 He is compell'd, *in forma pauperis*,
 To plead himself, and shew his (little) law
 In the free court of thy mild courtesies.

Please it, therefore, an Injunction grant,
To stay the Suit between himself and Want.
For thee and thine, for ay,
So he and his shall pray."

B. N.

These initials, probably those of Nicholas Breton, are subscribed to the prefatory address of a singular book entitled, "I Would, and Would Not," published in London in 1614. An idea of the author's plan, as well as his style, may be conveyed by the following stanzas applicable to our subject: —

"I would I were a man of such deepe wit,
As might discerne the depth of every cause;
That wheresoere I did in Judgement sit,
I might be held a Note-booke in the Lawes.
My braine might seeme a kinde of miracle,
And every word I spake an Oracle.

And yet I would not; for then, woe were me,
I should be troubled with a world of Cases:
Both rich and poore would then my Clients be,
Some with their pleasing, some with piteous faces;
And when the Rich had left their briberie,
I should not rest for *Forma Pauperie*."

FRANCIS QUARLES,

In "Emblems Divine and Moral," speaking of the
"golden age," says, —

"There was no client then to wait
The leisure of his long-tail'd advocate;
The talion law was in request,
And chanc'ry courts were kept in every breast;

Abused statutes had no tenters,
And men could deal secure without indentures."

JOHN STEPHENS,

in 1615, published "Essayes and Characters, ironical and instructive. With a new Satyre, in defense of common Lawyers, mixt with reproofe against their common Enemy." The following extract is said to allude to Ruggles's Latin play of "Ignoramus," which was a severe attack on law and lawyers : —

"It hath been tolde
Sound wits are modest, shallow wits are bolde ;
And therefore did the law-tearme Poet weene
To please a publike eare with private spleene.
Now, O the pittie ! that a misconceite
Of *some*, should *all* the Law and Lawyers baite.
Content yourselfe (saith Ignoramus), I
Am well acquainted with your pollicy :
You in the fencer's trick are deeply read ;
And off'ring at the foot, you mean the head.
As doth a rebell who hath taken armes,
He promises to helpe his countries harmes,
But hath a meaning to surprise the towne,
And make the total regiment his owne,
Such was the meaning, to disgrace the Law
Under a colour'd trick, and wisely draw
That honor to yourselves which follows them."

He also gives the character of an honest lawyer : "He is a precious diamond set in pure gold ; the one gives glory to the other ; and being divided, they be lesse valuable. He knows Law to be the mistres of man, and yet he makes Honesty the mistres of the Law. He hath as much leasure to dispute with Conscience in the most

busie tearme as in the deadeſt vacation. He rails not againſt the vices of his profeſſion, but makes his profeſſion commendable by his owne practiſe of vertue. He may well be a preſident to the beſt phyſicians, for he undertakes no cure when he perceives it inclining to be deſperate. He makes the cauſe, and not the client, the object of his labour. He hath no leaſure to protract time, or ſave his client's opinion with jeſts premeditated, or windy inferences. He owes ſo much worſhip to deſert and innocence, that he can as faithfully applaud ſufficient worth, as not to inſult over, or exclaime againſt, dull ignorance. He dares know and profeſſe, in ſpight of potency: hee dares be rich and honeſt, in deſpight of cuſtome."

LYNDSAY.

While we are grubbing among ancient remains, it would be wrong to paſs over Sir David Lyndſay's "*Monarchie*," in which a perſonage termed "*Experience*" thus ſpeaks of Law: —

"I would ſome Prince of great diſcretion
In vulgar language plainly cauſde translate
The needful Lawes of this Region:
Then would there not be halfe ſo great debate
Among us people of the low eſtate.
If every man the verity did know,
We needed not to treat theſe men of Law.
To do our neighbour wrong, we would beware,
If we did fear the Lawes puniſhment:
There would not be ſuch brawling at the Bar,
Nor men of Law chine to ſuch Royal rent,
To keep the Law if all men were content,
And each man do as he would be done to,
The Judges would get little thing adoe."

SEWELL,

in his tragedy "Sir Walter Raleigh," thus describes Coke and the crown lawyers in the memorable trial of the hero who gave the title to the play : —

"I heard the deep-mouth'd Pack, that scented Blood
From their first starting, and pursued their View
With the Law Musick of long-winded Calumny.
Well I remember one among the Tribe,
A reading Cut-throat skill'd in Parallels,
And dark Comparisons of wond'rous Likeness,
Who, in a Speech of unchew'd Eloquence,
Muster'd up all the Crimes since Noah's Days,
To put in Ballance with this fancied Plot,
And made e'en Catiline a Saint to Raleigh :
The Sycophant so much o'er-play'd his part,
I could have hugg'd him, kiss'd the unskillful Lies
Hot from his venal Tongue."

DANIEL,

in his lines on "Lord Keeper Egerton," has the following, which reminds us of a passage in Montaigne : —

"Since her interpretations, and our deeds,
Unto a like infinity arise,
As b'ing a science that by nature breeds
Contention, strife, and ambiguities;
For altercation controversy feeds,
And in her agitation multiplies :
The field of cavil lying all like wide,
Yields like advantage unto either side.

Which made the grave Castilian king devise
A prohibition that no advocate
Should be convey'd to th' Indian Colonies,
Lest their new settling, shaken with debate,

Might take but slender root, and so not rise
To any perfect growth of fine estate ;
For having not this skill how to contend,
Th' unnourish'd strife would quickly make an end."

BROOKE,

in "Mustapha," thus speaks of law : —

"Laws the next pillars be with which we deal,
As sophistries of ev'ry common weal ;
Or rather nets, which people do ask leave
That they to catch their freedoms in, may weave ;
And still add more unto the sultan's pow'r,
By making their own frames themselves devour.
These Lesbian rules, with show of real grounds,
Giving right, narrow ; will, transcendant bounds."

DEKKER,

in "Match me in London," observes, —

"You oft call Parliaments, and there enact
Laws good and wholesome, such as whoso break
Are hung by the purse or neck. But as the weak
And smaller flies i' the spider's web are ta'en,
When great ones tear the web and free remain ;
So may that moral tale of you be told
Which once the wolf related : in the fold
The shepherds kill'd a sheep, and eat him there ;
The wolf look'd in, and see'ng them at such cheer,
Alas ! quoth he, should I touch the least part
Of what you tear, you would pluck out my heart.
Great men make laws, that whosoe'er draws blood
Shall dye ; but if they murder flocks, 'tis good.
I'll go eat my lamb at home, sir."

In Tourneur's "Revenger's Tragoedie" we find this dialogue : —

- "1. Tell me, what has made thee so melancholy?
 2. Why, going to law.
 1. Why, will that make a man melancholy?
 2. Yes, to look long on ink and black
 Buckram. I went to law *in anno*
 Quadragesimo secundo, and I
 Waded out of it *in anno sexagesimo tertio*.
 1. What! three and twenty years in law?
 2. I have known those that have been five and fifty,
 And all about pullen and pigs.
 1. May it be possible such men should breathe,
 To vex the terms so much?
 2. 'Tis food to some,
 My lord. There are old men at the present
 That are so poison'd with th' affectation
 Of law-words, having had many suits canvass'd,
 That their common talk is nothing but barb'rous
 Latin: they cannot so much as pray, but
 In law, that their sins may be remov'd, with
 A writ of error, and their souls fetch'd up
 To heaven with a *certiorari*."

DAVENANT,

in his lines on the "Restauration," says, —

"Your clemency has taught us to believe
 It wise, as well as virtuous, to forgive.
 And now the most offended shall proceed
 In great forgiving, till no laws we need.
 For law's slow progresses would quickly end,
 Could we forgive as fast as men offend.
 Revenge of past offences is the cause
 Why peaceful minds consented to have laws:

Yet plaintiffs and defendants much mistake
 Their cure, and their diseases lasting make;
 For to be reconciled, and to comply,
 Would prove their cheap and shortest remedy:
 The length and charge of law vex all that sue;
 Laws punish many, reconcile but few."

In "Gondibert" he says, —

"Yet since on all war never needful was,
 Wise Aribert did keep the people sure
 By laws from little dangers; for the laws
 Then from themselves, and not from pow'r secure.

Else conquerors, by making laws, o'ercome
 Their own gain'd pow'r, and leave men fury free;
 Who growing deaf to pow'r, the laws grow dumb;
 Since none can plead, where all may judges be."

DONNE,

in rugged and forcible verse, thus scolds at lawyers in his
 Second Satire: —

"The insolence
 Of Coscus only breeds my just offense,
 Whom time (which rots all, and makes botches pox,
 And plodding on must make a calf an ox)
 Hath made a lawyer; which (alas!) of late
 But scarce a poet, jollier of this state
 Than are new beneficial ministers, he throws
 Like nets or lime-twigs, wheresoe'er he goes,
 His title of barrister on every wench,
 And woos in language of the pleas and bench.
 'A motion, Lady.' — 'Speak, Coscus.' — 'I have been
 In love e'er since *tricesimus* of the queen.
 Continued claims I've made, injunctions got,
 To stay my rival's suit, that he should not

Proceed; spare me, in Hilary term I went;
 You said if I returned next 'size in Lent,
 I should be in remitter of your grace;
 In the interim my letters should take place
 Of affidavits.' Words, words, which would tear
 The tender labyrinth of a maid's soft ear
 More, more than ten Slavonians' scoldings, more
 Than when winds in our ruined abbeys roar.
 When sick with poetry, and possest with muse
 Thou wast run mad — I hoped; but men which choose
 Law practice for mere gain, bold souls repute
 Worse than imbrotheled strumpets prostitute.
 Now, like an owl-like watchman, he must walk
 His hand still at a bill; now he must talk
 Idly, like prisoners, which whole months will'swear
 That only suretyship hath brought them there,
 And to every suitor lie in every thing,
 Like a king's favorite, or like a king:
 Like a wedge in a block, wring to the bar,
 Bearing like asses, and more shameless far
 Than carted whores, lie to the grave judge, for
 Bastardy abounds not in kings' titles, nor
 Simony and Sodomy in churchman's lives,
 As these things do in him; by these he thrives.
 Shortly, as the sea, he'll compass all the land,
 From Scots to Wight, from Mount to Dover-strand,
 And spying heirs, melting with luxury,
 Satan will not joy at their sins, as he;
 For (as a thrifty wench scrapes kitchen stuff
 And barrelling the droppings, and the snuff
 Of wasting candles, which in thirty year,
 Relicly kept, perchance buys wedding cheer)
 Piece-meal he gets lands, and spends as much time
 Wringing each acre, as maids pulling prime.
 In parchment, then, large as the fields, he draws
 Assurances, big as glossed civil laws,

So huge, that men (in our time's forwardness)
Are fathers of the church for writing less.
These he writes not, nor for these written pays,
Therefore spares no length (as in those first days,
When Luther was profest, he did desire
Short paternosters, saying as a friar
Each day his beads, but having left those laws,
Adds to Christ's prayer the power and glory clause).
But when he sells or changes land, he impairs
His writings, and (unwatched) leaves out *ses heires*,
And slyly as any commenter goes by
Hard words or sense; or in divinity
As controverters in vouched texts leave out
Shrewd words which might against them clear the doubt."

BISHOP HALL,

in the Third Satire of the second book, animadverts on
the law and lawyers: —

"Who doubts? the laws fell down from heav'n's height,
Like to some gliding star in winter's night?
Themis, the scribe of God, did long ago
Engrave them deep in during marble stone,
And cast them down on this unruly clay,
That men might know to rule and to obey.
But now their characters depraved bin,
By them that would make gain of others' sin.
And now hath wrong so mastered the right,
That they live best that on wrong's offal light.
So loathly fly, that lives on galled wound,
And scabby festers inwardly unsound,
Feeds fatter with that poisonous carrion,
Than they that haunt the healthy limbs alone.
Woe to the weal where many lawyers be,
For there is sure much store of malady.

'Twas truly said, and truly was foreseen,
 The fat kine are devoured of the lean.
 Genus and Species long since barefoot went
 Upon their ten toes in wild wonderment;¹
 Whiles father Bartoll² on his footcloth rode,
 Upon high pavement gaily silver strow'd.
 Each homebred science percheth in the chair
 While sacred arts grovel on the groundsel bare.
 Since peddling Barbarisms 'gan be in request,
 Nor classic tongues, nor learning found no rest,
 The crouching client, with low bended knee,
 And many worships, and fair flattery,
 Tells on his tale as smoothly as him list,
 But still the lawyer's eye squints on his fist;
 If that seem lined with a larger fee,
 Doubt not the suit, the law is plain for thee.
 Tho' must he buy his vainer hope with price,
 Dishclout his crowns, and thank him for advice.
 So have I seen in a tempestuous stowre,
 Some briar-bush showing shelter from the show'r,
 Unto the hopeful sheep that fain would hide
 His fleecy coat from that same angry tide:
 The ruthless briar, regardless of his plight,
 Lays hold upon the fleece he should acquite,
 And takes advantage of the careless prey,
 That thought she in securer shelter lay.
 The day is fair, the sheep would far to feed;
 The tyrant briar holds fast his shelter's need,
 And claims it for the fee of his defence:
 So robs the sheep, in favour's fair pretence."

¹ I.e., the professor of logic is obliged to go a-foot.

² Bartolus, a civil lawyer of the fourteenth century.

BOILEAU,

educated to the law, excuses his desertion to literature, in his First Satire : —

“ Shall I hereafter act another part,
 Phœbus abandon for Bartholu’s art?
 Turn o’er the Institutes, thumb Littleton,
 And draggling at my tail a dirty gown,
 Pick up for every cause a double crown?
 But at the very thought I start, and find
 The Bar and I shall ne’er be of a mind.
 Can I in such a barbarous country bawl,
 And rend with venal lungs the guilty hall;
 Where innocence does daily pay the cost,
 And in the labyrinth of law is lost;
 Where wrong by tricks and quirks prevails o’er right,
 And black is by due form of law made white;
Garvin outnoised by *Graham* yields the prize,
 And Ciceros are formed o’er mutton pies?
 E’er I a thought like this can entertain,
 Frost shall at midsummer congeal the Seine;
 His Holiness shall turn a Protestant,
Beecher wear lawn, and *Tyng* the elder cant.”

The translation which I quote has dashes in place of the proper names, and I have ventured to supply the names which I think the poet must have intended.

In the Eighth Satire the following occurs : —

“ No eagle does upon his peerage sue,
 And strive some meaner eagle to undo;
 No fox was e’er suborned by spite or pay,
 To swear his brother fox’s life away;
 Nor any hind, for impotence at rut,
 Did e’er the stag into the Arches put,

Where a grave dean the congress might ordain,
 And with that burlesque word his sentence stain.
 They do no dreadful *quo warranto* fear,
 Nor courts of sessions or assize are there,
 No common pleas, queen's bench, or chancery bar;
 But happier they, by nature's charter free,
 Secure and safe, in mutual peace agree,
 And know no other law but equity."

"What would he think, upon lord mayor's day,
 Should he the pomp and pageantry survey,
 Or view the judges, and their solemn train,
 March with grave decency to kill a man?
 What would he think of us, should he appear
 In turn, amongst the crowds, at Westminster,
 And there the hellish din and jargon hear,
 Where *Spencer* and his pack, with deep mouth'd notes,
 Drown Billingsgate and all its oyster boats?
 There see the judges, serjeants, barristers,
 Attorneys, counsellors, solicitors,
 Criers, and clerks, and all the savage crew,
 Which wretched man at his own charge undo?"

In his epistle to the Abbot des Roches, the poet says, —

"Dost think, thou champion of thy church's rights,
 That justice follows if the law invites?
 Would'st thou thy proud rebellious monks chastise?
 Believe me, 'tis a dangerous enterprise.
 Can Ausanet, tho' feed, secure the cause,
 Convince the judges and compel the laws?
 Tho' just thy suit, ne'er think it will succeed.
 In vain the law directs, and lawyers plead.
 Don't imitate the fools whom lust of gold
 Provokes, and makes 'em in a process bold;
 Don't at thy cost the greedy bench enrich,

Nor let litigious hopes thy mind bewitch;
For he who in a suit his weapon draws,
Is often beggar'd, tho' he gain his cause.
But who, the lawyers say, would lose his right?
The law has no respect for muck or might.
At Caen they preach this doctrine, where the son
The father follows, and is soon undone.
At Mons betimes the sire this lesson reads,
The son's soon taught, and son the sire succeeds.
But thou on this side of the Oise wert bred,
And wilt not with their follies fill thy head;
Nor wilt thou, like some hot incumbents, squeeze
The clowns, nor sue a peasant for a piece.
Nor e'er the law has ta'en its costly course,
Make bawling Mazier and Corbin hoarse.
No, no—but if thou e'er should'st long to fee
A lawyer, pr'ythee, first consult with me,
And if I can't these wicked thoughts disperse,
Read this old tale, which now I tell in verse:—

“It happen'd in a former wrangling age,
An author writes (no matter for the page),
Two travelers, for breakfast ready found
A fat stray oyster lying on the ground.
Says one, 'Tis mine; the other says the same:
And hot they grew, and hunger fann'd the flame.
Who should come by, while they debating stand,
But Justice, with the balance in her hand.
To her they both applied. She heard the cause,
And found them bent to leave it to the laws.
She weighed the matter, and to end it well,
Opened the fish, and gave to each a shell.
'Thus,' having swallowed it at once, she cried,
'We judge the cause, and thus the goods divide.
What, but for fools, would law and lawyers do?
'Twas a good oyster, gentlemen: adieu.'”

In the first epistle to the king, Boileau speaks of—

“The costly quarrels of the wrangling bar,
More fatal than the bloody feud of war.”

The following translation of a Latin epigram by this poet closes the list of his contributions to my subject:—

“UPON A YOUNG LAWYER, THE SON OF A COUNTRY BEADLE.

“While the fierce beadle’s brat does loudly bawl,
How silent are the mob, how still the hall!
Yet think not that his rhetoric’s revered:
The son is harmless, but the father’s feared.”

LA FONTAINE.

The twentieth Fable of the Second Book of La Fontaine contains a point of law derived, I infer, from Phædrus. The translation given below is Elizur Wright’s, slightly modified:—

“If what old story says of Æsop’s true,
The oracle of Greece he was,
And more than Areopagus he knew,
With all its wisdom in the laws.
The following tale gives but a sample
Of what his fame has made so ample.
Three daughters shared a father’s purse,
Of habits totally diverse.
The first, bewitched with drinks delicious,
The next, coquettish and capricious,
The third, supremely avaricious.
The sire, expectant of his fate,
Bequeathed his whole estate
In equal shares to them,
And to their mother just the same,—

To her made payable when (and not before)
Each daughter should possess her part no more.
The father died. The females three
Were much in haste the will to see.
They read and read, but still
Saw not the willer's will.
For could it well be understood
That each of this sweet sisterhood,
When she possessed her part no more,
Should to her mother pass it o'er?
'Twas surely not so easy saying
How lack of means would help the paying.
What meant their honored father, then?
Th' affair was brought to legal men,
Who, after turning o'er the case
Some hundred thousand different ways,
Threw down the learned bonnet,
Unable to decide upon it,
And then advised the heirs,
Without more thought, to adjust affairs.
As to the widow's share, the counsel say,
We hold it just the daughters each should pay
One-third to her upon demand,
Should she not choose to have it stand
Commuted as a life annuity,
Paid from her husband's death, with due congruity.
The thing thus ordered, the estate
Is duly cut in portions three;
And in the first they all agree
To put the feasting lodges, plate,
Luxurious cooling mugs,
Enormous liquor jugs,
Rich cupboards, — built beneath the trellised vine, —
The stores of ancient, sweet Malvoisian wine,
The slaves to serve it at a sign, —

In short, whatever in a great house
 There is of feasting apparatus.
 The second part is made
 Of what might help the jilting trade, —
 The city house and furniture,
 Genteel and exquisite, be sure;
 The eunuchs, milliners, and laces,
 The jewels, shawls, and costly dresses.
 The third is made of household stuff,
 More vulgar, rude and rough, —
 Farms, fences, flocks, and fodder;
 And men and beasts to turn the sod o'er.
 This done, since it was thought
 To give the parts by lot
 Might suit, or it might not,
 Each paid her share of fees dear,
 And took the part that pleased her.
 'Twas in great Athens town
 Such judgment gave the gown.
 And then the public voice
 Applauded both the judgment and the choice;
 But Æsop well was satisfied
 The learned men had set aside,
 In judging thus the testament,
 The very jist of its intent.
 The dead, quoth he, could he but know of it,
 Would heap reproaches on such Attic wit.
 What! men who proudly take their place
 As sages of the human race,
 Lack they the simple skill
 To settle such a will?
 This said, he undertook himself
 The task of portioning the pelf,
 And straightway gave each maid the part
 The least according to her heart, —

The gay coquette the drinking stuff;
The drinker next the farms and cattle;
And on the miser, rude and rough,
The robes and lace did Æsop settle;
For thus, he said, an early date
Would see the sisters alienate
Their several shares of the estate.
No motive now in maidenhood to tarry,
They all would seek, post haste, to marry;
And having each a splendid bait,
Each soon would find a fitting mate,
And leaving thus their father's goods intact,
Would to their mother pay them all in fact,—
Which of the testament
Was plainly the intent.
The people, who had thought a slave an ass,
Much wondered how it came to pass,
That one alone should have more sense
Than all their men of most pretence."

Among La Fontaine's Tales is one entitled "*Le Juge de Mesle*," of which I propose the following paraphrase:—

"Two advocates, unable to agree,
Perplexed a plain provincial magistrate:
They so enwrapped the case in mystery,
He could conjecture naught of its true state.
Two straws he did select, of length unequal,
And offered to the parties, with close grip:
Defendant drew the long, and as a sequel,
Acquitted, gaily from the court did trip.
The other members of the court deride:
But he replies, My blame you must divide;
My judgment is no novelty in law:
For you at hazard frequently decide,
And never pull, nor even care, a straw."

The story of the Oyster and the Litigants has been so spiritedly told by La Fontaine, that although it has been so often told, I will venture to present it in Wright's excellent version : —

“Two pilgrims on the sand espied
An oyster thrown up by the tide :
In hope both swallowed ocean's fruit,
But ere the fact there came dispute.
While one stooped down to take the prey,
The other pushed him quite away.

Said he, 'twere rather meet

To settle which shall eat.

Why, he who first the oyster saw,
Should be its eater by the law :
The other should but see him do it.
Replied his mate, If thus you view it,
Thank God the lucky eye is mine.
But I've an eye not worse than thine,
The other cried, and will be cursed,
If, too, I didn't see it first.
You saw it, did you? Grant it true,
I saw it, then, and felt it too.

Amidst this very sweet affair,

Arrived a person very big,

Yclept Sir Nincom Periwig.

They made him judge, — to set the matter square.

Sir Nincom, with a solemn face,

Took up the oyster and the case.

In opening both, the first he swallowed ;

And in due time his judgment followed.

Attend : the court awards you each a shell,

Cost free ; depart in peace, and use them well.

Foot up the cost of suits at law,

The leavings reckon, and award,

The cash you'll see Sir Nincom draw,
And leave the parties — purse and cards."

BUTLER.

Sam Butler had not a high opinion of lawyers, which perhaps was due to his having married a widow whom he thought possessed of a great fortune, which, being placed on bad security, or through the unskilfulness or roguery of a lawyer, was lost. In his commonplace book he says a lawyer never ends a suit, but prunes it, that it may grow the faster, and yield a greater increase of strife. The same idea occurs in *Hudibras* : —

"So lawyers, lest the bear defendant,
And plaintiff dog, should make an end on't,
Do stave and tail with writs of error,
Reverse of judgment, and demurrer,
To let them breathe a while, and then
Cry whoop, and set them on again."

His line, —

"Like scriv'ner newly crucify'd,"

refers to the cutting off the ears, inflicted on lawyers or scriveners guilty of dishonest practices. In another place he says, —

"Others believe no voice t'an organ
So sweet as lawyer's in his bar-gown,
Until, with subtle cobweb cheats,
They're catch'd in knotted law, like nets;
In which, when once they are imbrangled,
The more they stir, the more they're tangled:
And while their purses can dispute,
There's no end of th' immortal suit."

Of the Pickwickian nature of our quarrels, and the character of our learning, he holds these just views : —

“ For law’s the wisdom of all ages,
And manag’d by the ablest sages ;
Who, though their bus’ness at the bar
Be but a kind of civil war,
In which th’ engage with fiercer dudgeons
Than e’er the Grecians did, and Trojans,
They never manage the contest
T’ impair their public interest,
Or by their controversies lessen
The dignity of their profession.”

“ While lawyers have more sober sense
Than t’ argue at their own expense,
But make their best advantages
Of others’ quarrels, like the Swiss ;
And out of foreign controversies,
By aiding both sides, fill their purses ;
But have no int’rest in the cause
For which th’ engage and wage the laws,
Nor further prospect than their pay,
Whether they lose or win the day ;
And tho’ th’ abounded in all ages
With sundry learned clerks and sages ;
Tho’ all their bus’ness be dispute,
With which they canvass ev’ry suit, —
They’ve no disputes about their art,
Nor in polemics controvert :
While all professions else are found
With nothing but disputes t’ abound.”

“ But lawyers are too wise a nation
T’ expose their trade to disputation,
Or make the busy rabble judges
Of all their secret piques and grudges ;

In which, whoever wins the day,
The whole profession's sure to pay.
Besides, no mountebanks nor cheats
Dare undertake to do their feats,
When in all other sciences
They swarm like insects, and increase.
For what bigot durst ever draw,
By Inward Light, a deed in law?
Or could hold forth, by revelation,
An answer to a declaration?
For those that meddle with their tools,
Will cut their fingers, if they're fools;
And if you follow their advice,
In bills and answers and replies,
They'll write a love letter in chancery."

But again, —

"He that with injury is griev'd,
And goes to law to be reliev'd,
Is sillier than a sottish chouse,
Who, when a thief has robb'd his house,
Applies himself to cunning men
To help him to his goods agen;
When all he can expect to gain,
Is but to squander more in vain."

A righteous hit at "detectives." Under these lines, in Butler's manuscript, are the following strictures on lawyers: —

"More nice and subtle than those wire-drawers,
Of equity and justice, common lawyers;
Who never end, but always prune, a suit,
To make it bear the greater store of fruit.
As laboring men their hands, criers their lungs,
Porters their backs, lawyers hire out their tongues.

A tongue to mire and gain accustom'd long,
Grows quite insensible to right or wrong."

The absurd practice of verifying the answer, but not the petition, in chancery, is thus commented on : —

"And knowing he that first complains,
Th' advantage of the business gains ;
For courts of justice understand
The plaintiff to be eldest hand ;
Who what he pleases may aver,
The other nothing till he swear."

The scene in which Hudibras states his case to his counsel is most admirable. But first the character of the counsel, who is also a justice, is drawn in the most unfavorable light. He was

"A lawyer fit for such a case,
An old dull sot, who told the clock
For many years at Bridewell dock."

The puisne judge was formerly called the tell-clock, as supposed to be little employed, but listening how the time went, something like our "side justices." He finds the justice in his den, —

"With books and money plac'd for show,
Like nest-eggs to make clients lay,
And for his false opinion pay."

The dialogue between the client and his counsel shows a knowledge of human nature and of law rarely paralleled in literature : —

"Quoth he, there is one Sidrophel,
Whom I have cudgell'd. — Very well. —
And now he brags he hath beaten me —
Better and better still, quoth he —

And vows to stick me to the wall,
Where'er he meets me — Best of all. —
'Tis true the knave have taken's oath
That I robb'd him — Well done, in troth. —
When he's confess'd he stole my cloak,
And pick'd my fob, and what he took;
Which was the cause that made me bang him,
And take my goods again — Marry hang him. —
Now, whether I should beforehand
Swear he robb'd me? — I understand. —
Or bring my action of conversion
And trover for my goods? — Ah, whoreson! —
Or, if 'tis better to indite,
And bring him to his trial? — Right. —
Prevent what he designs to do,
And swear for th' state against him? — True. —
Or whether he that is defendant,
In this case, has the better end on't,
Who, putting in a new cross-bill,
May traverse th' action? — Better still. —
Then, there's a lady too — Aye, marry. —
That's easily prov'd accessory;
A widow, who by solemn vows,
Contracted to me for my spouse,
Combin'd with him to break her word,
And has abetted all — Good Lord! —
Suborn'd th' aforesaid Sidrophel
To tamper with the dev'l of hell,
Who put m' into a horrid fear,
Fear of my life — Make that appear. —
Made an assault with fiends and men
Upon my body — Good agen. —
And kept me in a deadly fright,
And false imprisonment, all night.
Meanwhile they robb'd me, and my horse,
And stole my saddle — Worse and worse. —

And made me mount upon the bare ridge,
T' avoid a wretcheder miscarriage."

The lawyer approves his case, and would like to have it his own case.

"But we that practise dare not own;
The law severely contrabands
Our taking bus'ness off men's hands;
'Tis common barratry, that bears
Point-blank an action 'gainst our ears,
And crops them till there is not leather
To stick a pen in left of either;
For which some do the summer-sault,
And o'er the bar, like tumblers, vault:
But you may swear at any rate,
Things not in nature for the state;
For in all courts of justice here
A witness is not said to swear,
But make oath, that is, in plain terms,
To forge whatever he affirms.

I thank you, quoth the Knight, for that,
Because 'tis to my purpose pat;
For Justice, tho' she's painted blind,
Is to the weaker side inclin'd,
Like charity: else right and wrong
Cou'd never hold it out so long,
And like blind fortune, with a sleight,
Convey men's interest and right
From Stiles's pocket into Nokes's,
As easily as *hocus pocus*;
Plays fast and loose, makes men obnoxious;
And clear again, like *hiccus doctius*."

His lawyer also counsels him to

"Retain all sorts of witnesses,
That ply i' th' Temple, under trees;

Or walk the round, with knights o' th' posts,
About the cross-legg'd knights, their hosts;
Or wait for customers between
The pillar-rows in Lincoln's-Inn,
Where vouchers, forgers, common-bail,
And affidavit-men ne'er fail
T' expose to sale all sorts of oaths,
According to their ears and clothes,
Their only necessary tools,
Besides the Gospel, and their souls;
And when ye're furnished with all purveys,
I shall be ready at your service."

Of the nature of an oath, Hudibras says, —

"Oaths were not purpos'd, more than law,
To keep the good and just in awe,
But to confine the bad and sinful,
Like mortal cattle in a pinfold."

In short, Hudibras bristles all over with accurate knowledge of law, and scathing sarcasms on its ministers and administration. Butler's correct use of law-phrases is not singular when we learn that he was for some years clerk to a justice, but nothing short of genius can account for his remarkable insight into the human mind and human motives.

POPE.

Pope has immortalized one lawyer, Mr. Fortescue, to whom his First Satire is addressed: —

"I come to counsel learned in the law:
You'll give me like a friend, both sage and free,
Advice, and (as you use) without a fee."

Fortescue was the author of the humorous report in *Scriblerus*, "*Straddling versus Stiles*," in which this nice

point is discussed with professional phraseology and due gravity: "Sir John Swale of Swalehall, in Swaledale, by the river Swale, knight, made his last will and testament, in which, among other bequests, was this; viz., 'Out of the kind love and respect that I bear unto my much-honored and good friend, Mr. Matthew Straddling, gent., I do bequeath unto the said Matthew Straddling, gent., all my black and white horses.' The testator had six black horses, six white horses, and six pied horses. The debate, therefore, was whether or no the said Matthew Straddling should have the said pied horses by virtue of the said bequest." The case is ably debated, though not at such length as legal cases usually are, when it is suddenly terminated by a motion in arrest of judgment, that the pied horses were mares; and thereupon an inspection was prayed!

Fortescue in 1738 was master of the rolls, but he would never have been remembered by posterity had it not happened that he worked for a poet for nothing.

BLACKSTONE,

who had a great passion and genius for literature, gave up every thing for the law; but his legal acquirements and talents, although large, were not distinguished enough to have given him immortality, unless they had been joined with that elegant style which makes his Commentaries so delightful. The following is his melodious and playful "Farewell to the Muse," written in 1744:—

"As by some tyrant's stern command
A wretch forsakes his native land,
In foreign climes condemned to roam,
An endless exile from his home;

Pensive he treads the destin'd way,
And dreads to go, nor dares to stay;
Till on some neighb'ring mountain's brow
He stops, and turns his eye below;
There, melting at the well-known view,
Drops a last tear, and bids adieu:
So I, thus doom'd from thee to part,
Gay queen of Fancy and of Art,
Reluctant move, with doubtful mind,
Oft stop, and often look behind.

Companion of my tender age,
Serenely gay and sweetly sage,
How blithesome were we wont to rove
By verdant hill or shady grove,
Where fervent bees, with humming voice,
Around the honey'd oak rejoice,
And aged elms with awful bend
In long cathedral walks extend!
Lulled by the lapse of gliding floods,
Cheer'd by the warbling of the woods,
How blest my days, my thoughts how free,
In sweet society with thee!
Then all was joyous, all was young,
And years unheeded rolled along;
But now the pleasing dream is o'er,
These scenes must charm me now no more:
Lost to the field, and torn from you —
Farewell! — a long, a last adieu.

Me wrangling courts and stubborn Law
To smook and crowds and cities draw:
There selfish Faction rules the day,
And Pride and Av'rice throng the way;
Diseases taint the murky air,
And midnight conflagrations glare;

Loose Revelry and Riot bold
 In frighted street their orgies hold ;
 Or when in silence all is drown'd,
 Fell murder walks her lonely round :
 No room for Peace, no more for you ;
 Adieu, celestial nymph, adieu !

Shakespeare no more, thy sylvan son,
 Nor all the art of Addison,
 Pope's heav'n strung lyre, nor Waller's ease,
 Nor Milton's mighty self must please ;
 Instead of these, a formal band
 In furs and coifs around me stand :
 With sounds uncouth and accents dry,
 That grate the soul of harmony,
 Each pedant sage unlocks his store
 Of mystic, dark, discordant lore,
 And points with tott'ring hand the ways
 That lead me to the thorny maze.

There, in a winding, close retreat,
 Is Justice doom'd to fix her seat :
 There, fenc'd by bulwarks of the Law,
 She keeps the wond'ring world in awe,
 And there, from vulgar sight retir'd,
 Like eastern queens is more admired.

Oh, let me pierce the secret shade
 Where dwells the venerable maid !
 There humbly mark, with rev'rent awe,
 The guardian of Britannia's Law,
 Unfold with joy her sacred page
 (Th' united boast of many an age,
 Where mix'd, yet uniform, appears
 The wisdom of a thousand years).

In that pure spring the bottom view,
Clear, deep, and regularly true,
And other doctrines thence imbibe
Than lurk within the sordid scribe ;
Observe how parts with parts unite
In one harmonious rule of right ;
See countless wheels distinctly tend
By various laws to one great end ;
While mighty Alfred's piercing soul
Pervades and regulates the whole.

Then welcome business, welcome strife,
Welcome the cares, the thorns of life,
The visage wan, the pore-blind sight,
The toil by day, the lamp at night,
The tedious forms, the solemn prate,
The pert dispute, the dull debate,
The drowsy bench, the babbling Hall, —
For thee, fair Justice, welcome all !

Thus, though my noon of life be past,
Yet let my setting sun at last
Find out the still, the rural cell
Where sage Retirement loves to dwell !
There let me taste the home-felt bliss
Of innocence and inward peace :
Untainted by the guilty bribe,
Uncurs'd amid the harpy tribe,
No orphan's cry to wound my ear,
My honour and my conscience clear,
Thus may I calmly meet my end,
Thus to my grave in peace descend."

The same agreeable poet wrote "The Lawyer's Prayer : " —

"Ordain'd to tread the thorny ground,
 Where very few, I fear, are sound,
 Mine be the conscience void of blame,
 The upright heart, the spotless name,
 The tribute of the widow's pray'r,
 The righted orphan's grateful tear !
 To Virtue and her friends a friend,
 Still may my voice the weak defend !
 Ne'er may my prostituted tongue
 Protect th' oppressor in his wrong,
 Nor wrest the spirit of the laws
 To sanctify the villain's cause !
 Let others, with unsparing hand,
 Scatter their poison through the land,
 Enflame dissention, kindle strife,
 And strew with ills the path of life ;
 On such her gifts let Fortune shower,
 Add wealth to wealth, and power to power :
 On me may favouring Heaven bestow
 That peace which good men only know,
 The joy of joys by few possess'd, —
 The eternal sunshine of the breast !
 Power, fame, and riches I resign —
 The praise of honesty be mine,
 That friends may weep, the worthy sigh,
 And poor men bless me when I die !"

CHATTERTON,

I suspect, hints at the state of the law of libel under
 Mansfield, and at Mansfield, when he says, in "The
 Whore of Babylon," —

"Complaints are libels, as the present age
 Are all instructed by a law-wise sage,
 Who, happy in his eloquence and fees,
 Advances to preferment by degrees ;

Trembles to think of such a daring step
As from a tool to *Chancellor* to leap:
But lest his prudence should the law disgrace,
He keeps a longing eye upon the mace."

He at any rate referred to Mansfield in the following passage from the same poem : —

"And who shall doubt and false conclusions draw
Against the inquisitions of the law,
With jailors, chains, and pillories must plead,
And Mansfield's conscience settle right his creed.
Is Mansfield's conscience, then, will Reason cry,
A standard block to dress our notions by?
Why, what a blunder has the fool let fall, —
That Mansfield has no conscience, none at all."

THOMSON,

in "The Seasons," makes an occasional and not flattering reference to law and lawyers : —

"Let this through cities work his eager way,
By legal outrage and established guile,
The social sense extinct. . . .

Let these
Insnare the wretched in the toils of law,
Fomenting discord, and perplexing right,
An iron race!"

"The toils of law (what dark insidious men
Have cumbrous added to perplex the truth,
And lengthen simple justice into trade),
How glorious were the day that saw these broke,
And every man within the reach of right!"

SWIFT,

in "The Beast's Confession," says, —

"The lawyer swears (you may rely on't)
 He never squeezed a needy client;
 And this he makes his constant rule,
 To which his brethren call him fool:
 His conscience always was so nice.
 He freely gave the poor advice,
 By which he lost, he may affirm,
 A hundred fees last Easter term;
 While others of the learned robe,
 Would break the patience of a Job.
 No pleader at the bar could match
 His diligence and quick dispatch;
 Ne'er kept a cause, he well may boast,
 Above a term or two at most."

CHURCHILL.

The law of libel in England, under Lord Mansfield, reached an extremely unjust and unpopular interpretation. In pursuance of the idea, "the greater the truth, the greater the libel," juries were instructed that their province was the question of publication alone; and a great deal of judicial bullying was resorted to for the purpose of extorting verdicts on this question, which although consonant with evidence, jurors felt would be the foundation of unjust and excessive judgments. The poet Churchill loses no opportunity of rebuking Mansfield for producing this state of the law. For instance, he speaks of one who prayed a judge

"That some new laws he would provide
 (If old could not be misapplied

With as much ease and safety there
As they are misapplied elsewhere),
By which it might be construed treason
In man to exercise his reason ;
Which might ingeniously devise
One punishment for truth and lies,
And fairly prove when they had done,
That truth and falsehood were but one ;
Which juries must indeed retain,
But their effects should render vain,
Making all real power to rest
In one corrupted, rotten breast,
By which false gloss the very Bible
Might be interpreted a libel."

DE FOE,

in his "Hymn to the Pillory," has the following fine passage on law : —

"The first intent of laws,
Was to correct the effect, and check the cause ;
And all the ends of punishment
Were only future mischiefs to prevent.
But justice is inverted when
Those engines of the law,
Instead of pinching vicious men,
Keep honest ones in awe."

And the following, not so fine, on lawyers : —

"Next bring some lawyers to thy bar,
By innuendo they might all stand there :
There let them expiate that guilt,
And pay for all that blood their tongues have spilt.
These are the mountebanks of State,
Who, by the slight of tongues, can crimes create,
And dress up trifles in the robes of fate ;

The mastiffs of a government,
To worry and run down the innocent."

The secret of De Foe's hostility to the lawyers is found in the fact that he had been put in the pillory for publishing a "scandalous and seditious pamphlet," entitled "The Shortest Way with the Dissenters." We can excuse his violence in consideration of the malice and bigotry of his accusers. He made money out of the hymn, however: just as our distinguished countryman, Mr. Train, finds it to his profit to go about rehearsing his incarceration in an Irish bastille, at the hands of the brutal British Government, for his advocacy of the cause of that down-trodden race whom Ossian describes as "the bare-breeched Fenians."

GAY

addresses his fable, "The Dog and the Fox," to a lawyer, and introduces it as follows:—

"I know you lawyers can with ease
Twist words and meanings as you please;
That language, by your skill made pliant,
Will bend to favor every client;
That 'tis the fee directs the sense,
To make out either side's pretense.
When you peruse the clearest case,
You see it with a double face;
For scepticism is your profession:
You hold there's doubt in all expression.
Hence is the bar with fees supplied,
Hence eloquence takes either side.
Your hand would have but paltry gleaning,
Could every man express his meaning.
Who dares presume to pen a deed,
Unless you previously are fee'd?

'Tis drawn, and to augment the cost,
In dull prolixity engrost;
And now we're well secured by law,
Till the next brother find a flaw.

Read o'er a will. Was't ever known
But you could make the will your own?
For when you read, 'tis with intent
To find out meanings never meant.
Since things are thus, *se defendendo*,
I bar fallacious *innuendo*."

COWPER.

The "Report of an Adjudged Case, not to be found in any of the Books," is an amiable satire. The character of the case and the organization of the court are stated in the first two stanzas: —

"Between Nose and Eyes a strange contest arose;
The spectacles set them unhappily wrong:
The point in dispute was, as all the world knows,
To which the said spectacles ought to belong.

So Tongue was the lawyer, and argued the cause
With a great deal of skill, and a wig full of learning;
While Chief-Baron Ear sat to balance the laws,
So famed for his talent in nicely discerning."

After submitting the arguments in favor of the title of the Nose, —

"Then shifting his side (as a lawyer knows how),
He pleaded again in behalf of the Eyes."

The result was, that

"His lordship decreed, with a grave solemn tone,
Decisive and clear, without one if or but,
'That whenever the Nose put his spectacles on,
By daylight or candle-light, Eyes should be shut!'"

Cowper was articled to an attorney, and an occupant of chambers in the inner temple for a number of years as a student at law. To this he pleasantly refers in one of his letters, which are among the most charming in the language: "I know less of the law than a country attorney, yet sometimes I think I have almost as much business. My former connection with the profession has got wind; and though I earnestly profess, and protest, and proclaim it abroad, that I know nothing of the matter, they cannot be persuaded to believe that a head once endowed with a legal periwig can ever be deficient in those natural endowments it is supposed to cover." "Indeed, if two of the wisest in the science of jurisprudence may give opposite opinions on the same point, which does not unfrequently happen, it seems to be a matter of indifference whether a man answers by rule or at a venture. He that stumbles upon the right side of the question is just as useful to his client as he that arrives at the same end by regular approaches, and is conducted to the mark he aims at by the greatest authorities."

The case of the Spectacles was originally written in another letter to a lawyer, and was thus prefaced: "Happy is the man who knows just enough of the law as to make himself a little merry now and then with the solemnity of judicial proceedings. I have heard of common law judgments before now; indeed, have been present at the delivery of some, that according to my poor apprehension, while they paid the utmost respect to the letter of the statute, have departed widely from the spirit of it, and being governed entirely by the point of law, have left equity, reason, and common sense behind them, at an infinite distance. You will judge whether the following report

of a case, drawn up by myself, be not a proof and illustration of this satirical assertion."

The poet plumed himself so on this case that he sent it to another correspondent, with the suggestion that poetical reports of law-cases are desirable, for the reasons that they would be more commonly deposited in the memory; divested of the law's infinite circumlocution, they would become surprisingly intelligible in comparison with their present obscurity; "and lastly, they would, by this means, be rendered susceptible of musical embellishment, and instead of being quoted in the country with that dull monotony so wearisome to by-standers, frequently lulling even the justices themselves to sleep, might be rehearsed in recitation, which would have an admirable effect in keeping the attention fixed and lively, and could not fail to disperse that heavy atmosphere of sadness and gravity which hangs over the jurisprudence of our country." He then relates a story of a lawyer who undertook to put Coke into metre, and cites the following sample of his skill:—

"Tenant in fee
Simple is he,
And need not quake nor quiver,
Who hath his lands
Free from demands
To him and his heirs forever."

This reminds me of some rules for purchasing lands, found in a book printed in 1586, entitled "A Booke of the Arte and Manner how to plant and Graffe all sortes of trees:"—

"Who so wil be wise in purchasing,
Let him consider these points following:

First see that the lande be cleare,
 In title of the sellar,
 And that it stand in no danger
 Of no woman's dowrie.
 See whether the tenure be bond or free,
 And release of every feoffee.
 See that the sellar be of age,
 And that it lie not in mortgage.
 Whether a tail be thereof found,
 And whether it stand in statute bound.
 Consider what service longeth thereto,
 And what quit rent thereout must go.
 And if it be come of a wedded woman,
 Think thou then on covert baron.
 And if you may in any wise,
 Make your charter with warrantise,
 To thee, thine heires, assignes also,
 Thus should a wise purchaser do."

Of a piece with this law-learning is the following "Canons of Descent:" —

- "1. Estates go to the issue (*item*)
 Of him last seized *in infinitum*;
 Like cow-tails, downward, straight they tend,
 But never lineally ascend:
2. This gives that preference to males
 At which a lady justly rails.
3. Of two males, in the same degree,
 The eldest, only, heir shall be:
 With females we this order break,
 And let them all together take.
4. When one his worldly strife hath ended,
 Those who are lineally descended
 From him, as to his claims and riches,
 Shall stand precisely in his breeches.

5. When lineal descendants fail,
Collaterals the land may nail;
So that they be (and that a bore is)
De sanguine progenitoris.
6. The heir collateral, d'ye see,
Next kinsman of whole blood must be.
7. And of collaterals the male
Stocks are preferred to the female,
Unless the land come from a woman,
And then her heirs shall yield to no man."

Or this : —

"A woman, having settlement,
Married a man with none :
The question was, he being dead,
If that she *had* was gone ?
Quoth Sir John Pratt, her settlement
Suspended did remain,
Living the husband — but him dead,
It doth *revive again*."

(Chorus of puisne judges) : —

"Living the husband — but him dead,
It doth revive again."

Let no one scoff at such improving exercises. John Scott, afterward Lord Eldon, is said to have amused himself by turning pieces of poetry into the form of legal instruments, and actually to have converted the ballad of "Chevy Chase" into the shape and style of a bill of chancery. What would we not give to possess it?

Cowper's idea of "musical embellishment" would do very well if we were always sure of so mellifluous a reporter. As to the music which should accompany the decisions, a course of rules would naturally be adopted,

and the technical machinery of the law made to conform to the new state of things. In choosing the *key*, judgments upon the rights of infants would be set in the *minor*, and courts-martial would be conducted in the *major*. Causes involving small amounts of money should be dashed off in a *presto* movement; but large estates—especially where the costs come out of the fund—should be inquired into at the deliberate pace of an *adagio*. Personal actions—such as slander, assault and battery, and particularly breach of promise of marriage—ought to be treated in *flats*. Musical terms might be used to describe legal process and remedies. For instance: An order appointing a receiver might appropriately be indicated by a *hold*; a stay of proceedings by a *rest*; an order of arrest by a *slur*; while a re-argument might properly be called a *repeat* or *da capo*,—back to the beginning. The fund in litigation would generally be *diminuendo*, and the costs *crescendo*, to the end. The course of some litigations, in which one judge enjoins another, would be described by a passage full of *accidentals*. Famous music already written could be adapted to various necessities of the law. Thus, an argument on the law of descent could well be illustrated by the music of the opera of “Orpheus;” a trial for murder by poisoning could be preluded by the strains of “Lucrezia Borgia;” a bill of discovery would be adequately set to an air from “La Somnambula,” in which groping in sleep and darkness is so thrillingly described; those pleas of insanity which inevitably accompany the defence of people who avenge their own domestic grievances, would fitly be conveyed in the harmonies of “Hamlet;” and the ease with which the marriage rela-

tion is dissolved in some parts of our favored country would be admirably set out by the melodious story of "Don Pasquale."

Cowper gives the following translation of a Latin poem by Vincent Bourne, entitled "The Cause Won : " —

"Two neighbors furiously dispute ;
A field — the subject of the suit.
Trivial the spot, yet such the rage
With which the combatants engage,
'Twere hard to tell who covets most
The prize — at whatsoever cost.
The pleadings swell. Words still suffice :
No single word but has its price.
No term but yields some fair pretence
For novel and increased expense.
Defendant thus becomes a name,
Which he that bore it may disclaim ;
Since both, in one description blended,
Are plaintiffs — when the suit is ended."

The same idea is expressed in the following : —

"Unhappy Chremes, neighbor to a peer,
Kept half his lordship's sheep, and half his deer ;
Each day his gates thrown down, his fences broke,
And injur'd still the more, the more he spoke ;
At last resolved his potent foe to awe,
And guard his right, by statute and by law,
A suit in chancery the wretch begun,
Nine happy terms through bill and answer run,
Obtain'd his cause and costs, and was undone."

EDWARD MOORE

published "Fables for the Female Sex," in London, upwards of a century ago ; and among his lucubrations is the following : —

"Past twelve o'clock,' the watchman cry'd;
His brief the studious lawyer plied;
The all-prevailing fee lay nigh,
The earnest of to-morrow's lie.
Sudden the furious winds arise,
The jarring casement shatter'd flies:
The doors admit a hollow sound,
And rattling from their hinges bound,
When Justice in a blaze of light,
Reveal'd her radiant form to sight.

The wretch with thrilling horror shook,
Loose every joint, and pale his look:
Not having seen her in the courts,
Or found her mentioned in reports,
He ask'd, with fault'ring tongue, her name,
Her errand there, and whence she came?

Sternly the white-rob'd shade reply'd
(A crimson glow her visage dy'd),
'Canst thou be doubtful who I am?
Is Justice grown so strange a name?
Were not your courts for Justice rais'd?
'Twas there of old my altars blaz'd.
My guardian thee I did elect,
My sacred temple to protect.
That thou and all thy venal tribe
Should spurn the goddess for the bribe!
Aloud the ruin'd client cries
That Justice has neither ears nor eyes:

In foul alliance with the bar,
'Gainst me the judge denounces war,
And rarely issues his decree
But with intent to baffle me.'

She paus'd. Her breast with fury burn'd.
The trembling lawyer thus return'd : —
'I own the charge is justly laid,
And weak th' excuse that can be made;
Yet search the spacious globe, and see
If all mankind are not like me.
The gownsman, skilled in Romish lies,
By faith's false glass deludes our eyes;
O'er conscience rides, without control,
And robs the man to save his soul.
The doctor, with important face,
By sly design mistakes the case;
Prescribes, and spies out the disease,
To trick the patient of his fees.
The soldier, rough with many a scar,
And red with slaughter, leads the war.
If he a nation's trust betray,
The foe has offered double pay.
When vice o'er all mankind prevails,
And weighty interest turns the scales,
Must I be better than the rest,
And harbor justice in my breast?
On one side only take the fee,
Content with poverty and thee?'

'Thou blind to sense, and vile of mind,
The exasperated shade rejoin'd,
'If virtue from the world is flown,
Will others' faults excuse thy own?
For sickly souls the first was made;
Physicians for the body's aid;

The soldier guarded liberty;
 Man woman, and the lawyer me.
 If all are faithless to their trust,
 They leave not thee the less unjust.
 Henceforth your pleadings I disclaim,
 And bar the sanction of my name :
 Within your courts it shall be read,
 That Justice from the law is fled.' "

MANDEVILLE,

in the "Fable of the Bees," has these Hudibrastic lines on lawyers, in reference to the subject of the registration of voters : —

"The lawyers, of whose art the basis
 Was raising feuds and splitting cases,
 Oppos'd all Registers, that cheats
 Might make more work with dipt estates ;
 As 'twere unlawful that one's own
 Without a law-suit should be known !
 They put off hearings wilfully,
 To finger the refreshing fee ;
 And to defend a wicked cause
 Examin'd and survey'd the laws,
 As burglars shops and houses do,
 To see where best they may break through."

Farther on he says, —

"Justice herself, fam'd for fair dealing,
 By blindness had not lost her feeling :
 Her left hand, which the scales should hold,
 Had often dropt 'em, bribed with gold ;
 And though she seem'd impartial,
 Where punishment was corporal,
 Pretended to a reg'lar course,
 In murder, and all crimes of force ;

Though some first pillory'd for cheating,
Were hang'd in hemp of their own beating;
Yet it was thought, the sword she bore
Check'd but the desp'rate and the poor;
That urg'd by mere necessity,
Were ty'd up to the wretched tree,
For crimes which not deserv'd that fate,
But to secure the rich and great."

"But Jove, with indignation mov'd,
At last in anger swore, he'd rid
The brawling hive of fraud; and did."

"The bar was silent from that day;
For now the willing debtors pay
Ev'n what's by creditors forgot;
Who quitted them that had it not.
Those that were in the wrong stood mute,
And dropt the patch'd, vexatious suit;
On which since nothing else can thrive,
Than lawyers in an honest hive,
All except those that got enough,
With ink-horns by their sides troop'd off."

In his sixth dialogue this author says, "The study of the law is very crabbed and very tedious; but the profession of it is as gainful, and has great honours annexed to it: the consequence of this is, that few come to be eminent in it but men of tolerable parts and great application. And whoever is a good lawyer, and not noted for dishonesty, is always fit to be a judge, as soon as he is old and grave enough. To be a lord chancellor, indeed, requires higher talents; and he ought not only to be a good lawyer and an honest man, but likewise a person of general knowledge and great penetration But this

is but one man; and considering what I have said of the law, and the power which ambition and the love of gain have upon mankind, it is morally impossible, that in the common course of things among the practitioners in chancery, there should not at all times be one or other fit for the seals."

GOLDSMITH

wrote the following on "honest Tom Hickey," who gave the poet good dinners:—

"Here Hickey reclines, a most blunt, pleasant creature;
And slander itself must allow him good nature:
He cherish'd his friend, and he relish'd a bumper;
Yet one fault he had, and that one was a thumper.
Perhaps you may ask if the man was a miser?
I answer, No, no, for he always was wiser.
Too courteous, perhaps, or obligingly flat?
His very worst foe can't accuse him of that.
Perhaps he confided in men as they go,
And so was too foolishly honest? Ah, no!
Then, what was his failing? come, tell it, and burn ye:
He was—could he help it? a special attorney."

In "The Logicians Refuted," he controverts the idea that reason belongs to man alone, and says, among other things,—

"Who ever knew an honest brute,
At law his neighbor prosecute,
Bring action for assault and battery?"

In "The Citizen of the World," Goldsmith describes a visit to Westminster Hall, made by the Chinese narrator with a friend who has a law-suit there, and who has

"been on the eve of an imaginary triumph these ten years." His lawyer tells him that he "has Salkeld and Ventris strong in his favor, and there are no less than fifteen cases in point." Unfortunately Coke and Hale are against him. The Chinese cannot understand why a case should be decided upon precedents. His friend explains, that it is in order to consume time ; for "the more time that is taken up in considering any subject, the better it will be understood." The Chinese is astonished at the number of attendants at court. His friend says, "They live by watching each other. For instance, the catch-pole watches the man in debt, the attorney watches the catch-pole, the counselor watches the attorney, the solicitor the counselor, and all find sufficient employment." Just then the attorney informs his friend that his cause is put off till another term, and the Chinese and his friend go to see Bedlam.

CRABBE,

that amiable poet, whose verses have the double advantage of being just as good prose as poetry, has something to say of law and law-books, in his poem called "The Library : " —

"On either side

The huge Abridgments of the Law abide ;
Fruitful as vice the dread correctors stand,
And spread their guardian terrors round the land :
Yet as the best that human care can do,
Is mix'd with error, oft with evil too,
Skill'd in deceit, and practised to evade,
Knaves stand secure, for whom these laws were made ;
And justice vainly each expedient tries,
While art eludes it, or while power defies."

Hereupon an interlocutor, in the shape of a "youthful poet," breaks out into song about those happy ages "when the free nations knew not laws," and "love was law," etc., but is rebuked and corrected by the older bard, who explains that the laws were made —

"Those to control, and these to succour trade;
To curb the insolence of rude command,
To snatch the victim from the usurer's hand;
To awe the bold, to yield the wrong'd redress,
And feed the poor with Luxury's excess.

Like some vast flood, unbounded, fierce, and strong,
His nature leads ungovern'd man along;
Like mighty bulwarks made to stem that tide,
The laws are form'd, and placed on ev'ry side:
Whene'er it breaks the bounds by these decreed,
New statutes rise, and stronger laws succeed;
More and more gentle grows the dying stream,
More and more strong the rising bulwarks seem;
Till like a miner working sure and slow,
Luxury creeps on, and ruins all below;
The basis sinks, the ample piles decay;
The stately fabric shakes and falls away;
Primeval want and ignorance come on;
But Freedom, that exalts the savage state, is gone."

The editor of Crabbe's poems has an interesting note, quoted from Sir D. Dalrymple (Lord Hailes), on *Abridgments*: —

"Who are they, whose unadorned raiment bespeaks their inward simplicity? These are law-books, statutes, and commentaries on statutes, — whom all men can obey, and yet few only can purchase. Like the Sphynx in antiquity, they speak in enigmas, and yet devour the unhappy wretches who comprehend them not. Behold, for our

comfort, 'An Abridgment of Law and Equity!' It consists not of many volumes; it extends only to twenty-two folios; yet as a few thin cakes may contain the whole nutritive substance of a stalled ox, so may this compendium contain the essential gravy of many a report and adjudged case. The sages of the law recommend this Abridgment to our perusal. Let us, with all thankfulness of heart, receive their counsel. Much are we beholden to physicians, who only prescribe the bark of the quinquina, when they might oblige their patients to swallow the whole tree."

Crabbe does our profession the honor of devoting to us a letter in "The Borough." He heads it "Professions — Law;" and as one would naturally expect, a letter on "Physic" succeeds: but one looks in vain for any epistle on "Divinity" from the reverend poet's pen. It seems, on perusing these letters, that the place of honor is given to the law, not on account of any especial partiality in the writer for our profession, but simply for the reason that one of two criminals is hanged first, or with the courtesy that Polyphemus extended to Ulysses, the privilege of being the last to be devoured. After the lawyers and doctors are executed, the clergy appear to receive a full pardon. The letter in question is so dull, that it is difficult to select any thing for quotation. The poet, in alluding to the increasing prosperity of attorneys, observes, —

"One Man of Law in George the Second's reign
Was all our frugal fathers would maintain;
He too was kept for forms; a man of peace,
To frame a contract, or to draw a lease:

He had a clerk, with whom he used to write
 All the day long, with whom he drank at night ;
 Spare was his visage, moderate his bill,
 And he so kind, men doubted of his skill."

If our poet could see the bills of lawyers of this day, he would not pronounce modern attorneys of a "*spare*" habit.

After comparing lawyers to spiders, and their clients to flies, etc., after the time-honored vogue, he admits that there may now and then be an honest attorney ; but

"These are the few. — In this, in every place,
 Fix the litigious, rupture-stirring race ;
 Who to contention as to trade are led,
 To whom dispute and strife are bliss and bread."

In speaking of the ideas that the young imbibe of various occupations, he says, —

"The youth has heard — it is in fact his creed —
 Mankind dispute, that Lawyers may be fee'd."

He makes the lawyer contend that only three of the Ten Commandments are obligatory ; namely, those against stealing, murder, and adultery : —

"Break these decrees, for damage you must pay ;
 These you must reverence, and the rest — you may."

Really, if a clergyman *will* write such stuff as this, one might be excused from observing the third commandment, at least. He compares the law to a still : while the fire burns of itself, gains are quickly made ; when it begins to fail, the lawyers blow the flame : —

"At length the process of itself will stop,
 When they perceive they've drawn out every drop."

In all this chaff I find one grain of wit. Of an attorney who got clients by hospitality, he says, —

“For this he now began his friends to treat:

His way to starvè them was to make them eat.”

GRAY.

It is interesting to learn the views of the elegant author of the “Elegy in a Country Churchyard” on the “Study of the Law.” They are found in a letter to his friend West, who had thoughts of devoting himself to the profession: “Examples show one that it is not absolutely necessary to be a blockhead to succeed in this profession. The labour is long, and the elements dry and unenterprising; nor was ever anybody (especially those that afterward made a figure in it) amused, or even not disgusted in the beginning; yet upon a further acquaintance, there is surely matter for curiosity and reflection. It is strange if among all that huge mass of words, there be not somewhat intermixed for thought. Laws have been the result of long deliberation, and that not of dull men, but the contrary, and have so close a connection with history, — nay, with philosophy itself, — that they must partake a little of what they are related to so nearly. Besides, tell me, have you ever made the attempt? Was not you frightened merely with the distant prospect? Had the Gothic character and bulkiness of these volumes (a tenth part of which, perhaps, it will be no further necessary to consult than as one does a dictionary) no ill effect upon your eye? Are you sure, if Coke had been printed by Elzevir, and bound in twenty neat pocket volumes, instead of one folio, you should never have taken him for an hour, as you would a Tully, or drank your tea over him?”

COLERIDGE

must have been suffering from an under-dose of opium when he wrote "The Devil's Thoughts," in which he says, —

"He saw a Lawyer killing a viper
On a dung-hill hard by his own stable;
And the Devil smiled, for it put him in mind
Of Cain and his brother Abel."

There is some dispute as to whether Coleridge or

SOUTHEY

is entitled to the discredit of the foregoing. Southey was very fond of writing about the Devil, and of connecting him with lawyers. Thus, in "The Alderman's Funeral," in speaking of the dead man's donations to charity, he calls them

"Retaining fees against the Last Assizes,
When for the trusted talents, strict account
Shall be required from all, and the old Arch-Lawyer
Plead his own cause as plaintiff."

In this view Southey will have an easy term at the day of judgment, for he had but few talents to account for.

In "All for Love; or, a Sinner well Saved," the poet represents Satan as claiming a human soul by virtue of a bond signed by the unhappy mortal: —

"Mine is he by a bond,
Which holds him fast in law;
I drew it myself for certainty;
And sharper than me must the Lawyer be
Who in it can find a flaw."

But Basil, the bishop, defeats him by showing that the bond was framed with fraudulent intent : —

“This were enough ; but more than this,
A maxim, as thou knowest, it is,
Whereof all laws partake,
That no one may of his own wrong
His own advantage make.”

The Fiend gives up, beaten, and says to himself, —

“The Law thy calling ought to have been,
With that wit so ready and tongue so free,
To prove by reason, in reason’s despite,
That right is wrong, and wrong is right,
And white is black, and black is white :
What a loss have I had in thee !”

There is something delightfully absurd in the idea of Southey, who has written so many dull and interminable poems, reprimanding the lawyers for their verbosity. But in “The Doctor” we find the following : “That crafty politician, who said the use of language is to conceal our thoughts, did not go farther in his theory than the members of the legal profession in their practice ; as every deed which comes from their hands may testify, and every court of law bears record. You employ them to express your meaning in a deed of conveyance, a marriage settlement, or a will ; and they so smother it with words, so envelop it with technicalities, so bury it beneath redundancies of speech, that any meaning which is sought for may be picked out, to the confusion of that which you intended. Something, at length, comes to be contested : you go to a court of law to demand your right, or you are summoned into one to defend it. You

ask for justice, and you receive a nice distinction — a forced construction, a verbal criticism. By such means you are defeated and plundered in a civil cause ; and in a criminal one, a slip of the pen in the indictment brings off the criminal scot-free. As if slips of the pen in such cases were always accidental ! But because judges are incorruptible (as, blessed be God ! they still are, in this most corrupt nation), and because barristers are not to be suspected of ever intentionally betraying the cause which they are feed to defend, it is taken for granted that the same incorruptibility, and the same principled integrity, or gentlemanly sense of honor, which sometimes is its substitute, are to be found among all those persons who pass their miserable lives in quill-driving, day after day, from morning till night, at a scrivener's desk, or in an attorney's office ! ”

Southey, however, did not object to being dubbed LL.D. by Oxford.

TOM MOORE

treats of the same idea, in much the same spirit, and with the same inevitable last rhyme, in “A Case of Libel.” He describes the Devil as coming to London, and putting on the habiliments and demeanor of a gentleman. One of the newspapers, however, warns people that he is the evil one ; and the fiend takes legal advice as to his rights in the premises. The result is described by the poet as follows : —

“ Away he posts to a man of law ;
 And oh, 'twould make you laugh to've seen 'em,
 As paw shook hand, and hand shook paw,
 And 'twas ‘ Hail, good fellow, well met,’ between 'em.

Straight an indictment was preferred —
 And much the Devil enjoyed the jest,
 When, looking among the judges, he heard
 That of all the batch, his own was *Best*.

In vain Defendant proffered proof
 That Plaintiff's self was the Father of Evil —
 Brought Hoby forth to swear to the hoof,
 And Stultz to speak to the tail of the Devil.

The Jury — saints, all snug and rich,
 And readers of virtuous Sunday papers —
 Found for the Plaintiff: on hearing which
 The Devil gave one of his loftiest capers.

For oh, it was nuts to the father of lies
 (As this wily fiend is named in the Bible),
 To find it settled by laws so wise,
 That the greater the truth, the worse the libel!"

Shelley was not alone in his abuse of Lord Eldon; for Moore, also, gives him his compliments in "A Vision, by the Author of Christabel." The author dreams that he was carried by a vicious spirit into the court of chancery.

"Around me flitted unnumbered swarms
 Of shapeless, bodiless, tailless forms
 (Like bottled-up babes that grace the room
 Of that worthy knight, Sir Everard Home), —
 All of them things half-killed in rearing;
 Some were lame — some wanted *hearing*;
 Some had through half a century run,
 Though they hadn't a leg to stand upon.
 Others, more merry, as just beginning,
 Around on a *point of law* were spinning;

Or balanced aloft, 'twixt *Bill* and *Answer*,
 Lead at each end, like a tight-rope dancer.
 Some were so *cross* that nothing could please 'em;
 Some gulped down *affidavits* to ease 'em:
 All were in motion, yet never a one,
 Let it *move* as it might, could ever move *on*.
 'These,' said the Spirit, 'you plainly see,
 Are what are called Suits in Chancery!'

.
 I looked, and I saw a wizard rise,
 With a wig like a cloud before men's eyes.
 In his agèd hand he held a wand,
 Wherewith he beckoned his embryo band;
 And they moved and moved, as he waved it o'er,
 But they never got on one inch the more.
 And still they kept limping to and fro,
 Like Ariels round old Prospero,
 Saying, 'Dear Master, let us go;'
 But still old Prospero answered, 'No.'
 And I heard the while, that wizard elf
 Muttering, muttering spells to himself,
 While over as many old papers he turned,
 As Hume e'er moved for, or Omar burned.
 He talked of his Virtue, though some, less nice
 (He owned with a sigh), preferred his *Vice*;
 And he said, 'I think' — 'I doubt' — 'I hope,'
 Called God to witness, and damned the Pope;
 With many more sleights of tongue and hand
 I couldn't, for the soul of me, understand.
 Amazed and posed, I was just about
 To ask his name, when the screams without,
 The merciless clack of the imps within,
 And that conjurer's mutterings, made such a din,
 That startled, I woke — leaped up in my bed —
 Found the Spirit, the imps, and the conjurer fled,

And blessed my stars, right pleased to see
That I wasn't as yet in Chancery."

No doubt the great chancellor forgave the poet this irresistibly funny banter. If he had been like some modern judges, he would have brought him into chancery by an injunction restraining the publication.

In "The Fudge Family in Paris," Phil. Fudge writes to his brother, Tim Fudge, Esq., Barrister-at-Law, as follows : —

"Who shall describe thy powers of face,
Thy well-fee'd zeal in every case,
Or wrong or right — but ten times warmer
(As suits thy calling) in the former —
Thy glorious, lawyer-like delight
In puzzling all that's clear and right,
Which, though conspicuous in thy youth,
Improves so with a wig and band on,
That all thy pride's to waylay Truth,
And leave her not a leg to stand on.
Thy patent, prime morality, —
Thy cases, cited from the Bible, —
Thy candor, when it falls to thee
To help in trouncing for a libel.
These are the virtues, Tim, that draw
The briefs into thy bag so fast;
And these, O Tim! — if Law be Law —
Will raise thee to the Bench at last."

GOETHE

illustrates what Mr. Palgrave describes as the "folly of obstinately retaining a law after it has outlived its use and application," as follows in *Faust* : —

"Laws, like inherited disease, descend :
 They slyly wind their way from age to age,
 And glide almost unseen from place to place.
 Reason to nonsense grows, a benefit to plague.
 Woe unto thee, that thou a grandson art.
 Of inborn law, to which each man has right, —
 Of that, unfortunately, there is no question."

He makes the chancellor thus discourse of the administration of justice : —

"One steals a woman, one a steer,
 Lights from the altar, chalice, cross,
 Boasts of his deeds full many a year,
 Unscathed in body, without harm or loss.
 Now to the hall accusers throng ;
 On cushioned seat the judge presides ;
 Surging meanwhile in eddying tides,
 Confusion waxes fierce and strong.
 He may exult in crime and shame,
 Who on accomplices depends :
 Guilty ! the verdict they proclaim
 When Innocence her cause defends.
 So will the world succumb to ill,
 And what is worthy perish quite :
 How then may grow the sense which still
 Instructs us to discern the right ?
 E'en the right-minded man, in time,
 To briber and to flatterer yields :
 The judge, who cannot punish crime,
 Joins with the culprit whom he shields."

SHELLEY.

Nothing ever written against the chancery court of England equals, in intensity and bitterness, the lines of Shelley "To the Lord Chancellor." The chancellor,

Lord Eldon, had decreed that the poet was not a fit person to have the custody and education of his elder children, on account, I believe, of his peculiar notions of religion; and the poet poured out the vials of his wrath on him and his court, commencing as follows:—

“Thy country’s curse is on thee, darkest Crest
Of that foul, knotted, many-headed worm
Which rends our Mother’s bosom—Priestly Pest!
Masked Resurrection of a buried form!”

The Star-chamber meaning. He curses the chief big-wig by nearly as many forms, and with as great ingenuity, as the Catholic anathema, and among other things,

“By all the acts and snares of thy black den.”

Elsewhere, in the same piece, he mildly characterizes the chancery and the chancellor as

“the earth-consuming hell,
Of which thou art a demon.”

It must be bad enough to be a chancellor, without being cursed by a poet.

ROGERS.

The poet Rogers, in his poem “Italy,” dresses up a law incident very neatly, and entitles it “The Bag of Gold.” Three banditti deposited with their hostess, Lucrezia, a bag of gold, to be delivered on the joint order of the three. They departed; but one soon returned, asking leave to put his seal on the bag, as the other two had done, and, while the hostess’s attention was momentarily withdrawn, made off with the treasure. Of course, in due time, the other two appear, and demand the gold

Ruin stares the hostess in the face. No counsellor could be found to advocate her cause, because she had no money to pay fees. At this juncture, when the trial-day was approaching, Lorenzo, inspired by love of her daughter, Gianetta, volunteers his services, and on the trial takes the self-evident position, that as the gold was to be delivered to the three, two cannot lawfully claim it. His defence was successful; and fame, and marriage with the fair Gianetta, followed. The original of this story is said to be found in a case of Attorney-Gen. Noy, with whose client, an innkeeper, three drovers had made a similar deposit.

"STULTIFERA NAVIS,

The Modern Ship of Fools," is the title of a little book published at London in 1807, modelled upon the celebrated work of Sebastian Brandt, with the same title. It has a curious colored frontispiece, representing "Fools passing the Portico of Folly." Section six is addressed to "Foolish Counsellors, Judges, and Men of Law: " —

"And can no quibble law itself excuse;
Must I condemn thee, spite of all thy ruse?
A wond'rous tale my chronicle now tells;
For in the place of judge's robe sedate,
The lawyer's garb, the wig on counsel's pate,
I view a zany's ladle, ears, and bells.

Say, what's thy judgment? pr'ythee, silly ass,
Brittle thyself as any Venice glass,

Dar'st thou take life which Heav'n alone can give?
What are thy quirks, deceitful man of law?
What are thy pleadings, counsel, when a flaw
Condemns the guiltless, bids the guilty live?

Right is to thee a pleasing masquerade ;
Thine object lucre, justice but a trade :
 The fee will win thee, be it foul or fair.
Browbeat the evidence, turn black to white,
Hoodwink the jury by sophistic flight,
 Hear innocence condemned : what need'st thou care ?

Sable's thy robe, well fitted to impart
The sabler dye that stains thy callous heart,
 Glutted with gold by fell extortion got.
Thy daring principle is *self* alone :
The cries of injur'd, and the prisoner's groan,
 Ne'er urge thee to commiserate their lot.

L'Envoy of the Poet.

Mark o'er thine head now hangs the steady scale,
 Pois'd in the hand supreme the balance see :
Knock at thy breast, and should stern justice fail,
 Think on that justice which must wait on thee.

The Poet's Chorus to Fools.

Come, trim the boat, row on, each Rara Avis,
Crowds flock to man my Stultifera Navis."

Section thirty-five is "of fools who go to law for trifles," with the motto, "*Cum licet fugere, ne quære litem* : " —

"The fool who doth at trifles claw,
And to obtain 'em goes to law,
Yet having met with sad disaster,
Applies, to heal it, blister plaister,
The remedy ne'er fails to stick
Upon his head, so wondrous thick :
For if with law you once begin,
'Twill strip the poor man to the skin,

And from the rich alike will steal
 Enough to make the client feel
 Just like the sheep, that in a storm,
 Sought 'neath the hedge a covert warm;
 And there, from rain and wind defended,
 He waited till the storm was ended,
 Then bleated out a thousand thanks,
 And bounded blithe to sunny banks,
 But found, though shelter'd from the wind,
 Part of his fleece was left behind.
 Thus, bramble-like, we find that law,
 When once a fool gets in its jaw,
 Though from the theft it saves his coat,
 'Twill steal the pound and leave the groat."

COXE.

Probably the silliest poem in the English language is "The Social Day," by Peter Coxe. The author, who was a wealthy gentleman, seems to have been afflicted by *cacoethes scribendi* and an extraordinary amount of vanity. He published this poem in a most sumptuous form, sparing no expense in typography and illustrations. The latter formed an era in English engraving; and among them was the first steel plate ever executed in England, — "The Broken China Jar," after Wilkie. The following extract, pertinent to our subject, will give an adequate idea of the merits of the poem: —

"The law decisive has exprest,
 Setting disputed points at rest,
 That no learned clerk, by means of gold,
 Can have possession of the fold
 Formed to protect that flock from harm
 The Saviour gathered in his arm;

Taking the self-appointed station,
By means of purchased presentation,
'Till by a debt of nature paid,
The legal entrance has been made :
'Tis then he may demand possession,
As heir immediate in succession ;
Claiming, thenceforward, as his due,
Rectorial tithe, and right of pew.
No act collusive can avail,
No resignation bonds prevail :
Justice, correct, ne'er takes upon her
To blend her rights with those of honour.
Each law should be a standard measure,
Not shaped at will, or changed at pleasure ;
But fixed the assize, and public shown,
And then our equal rights are known :
And yet the courts, in blinking time,
Turn casuists to meet the crime.
Thus 'tis no crime the cures to buy
Before the aged incumbents die ;
Though trembling on the verge of death,
They scarce can draw their fleeting breath :
But if the vital spark be gone,
One instant fled, the crime is done ;
Betwixt life's flame and its extinction,
The law assumes that nice distinction."

TENNYSON

has little to say of our subject, but he gives the very best description of the common law : —

— "the lawless science of our law,
That codeless myriad of precedent,
That wilderness of single instances."

IRELAND.

"Scribbleomania, or the Printer's Devil's Polychronicon, a sublime poem, edited by Anser Pendragon, Esq.," is a satirical poem by W. H. Ireland, who is best, or rather worst, known as the author of the famous Shakespeare forgeries, which created a tremendous sensation in the literary world, causing Boswell to go down on his knees in thanksgiving. One chapter is devoted to jurisprudence, and is as follows : —

"From culture dispelling gross ignorance dense,
That prescribes to our passions the curb-rein of sense;
From morality's rules planted deep in the breast,
Where goading of turpitude ne'er was impress'd, —
Springs love for those writers, from whom we can draw
The precepts of justice and source of all law :
Since the upright no terrors in punishment trace,
For the guilty alone bear the brand of disgrace.
Our code void of quirks in a Blackstone is seen,
From Burn's jurisprudence staunch precepts we glean ;
While our rights from Delolme are at once understood,
'That freedom acquired from our forefathers' blood.'
Such works fundamental for aye stand enrolled,
Such names should grace adamant, blazon'd in gold.
As a link of the bar, I with honor renown 'em,
And exulting with circlet unfading thus crown 'em."

Then comes the following : —

"Do we not find these lords sedate
Make laws themselves, so intricate,
That one act patches up another,
As rogue will rogue, because a brother?
In vain for verdict ye resort,
And come with clean hands into court ;

Since right and wrong give equal sport
To counsel, who'll cross-question so,
That whether witness will or no,
He'll surely gainsay what is sooth,
And mar with lie the naked truth.
In vain on high sits Justice scowling,
In vain poor Goddess makes a growling;
They heed her not, but with ear clinkers
Out-argue right: as for her blinkers,
Lest their keen glance should raise a stir,
They've bound e'en up with mockinger.
An' oath to him who'd truth be killing,
Is kiss the book and give a shilling;
No more nor less, for when digestion
Is strong with conscience, to each question,
Witness may cut pert counsel short,
By stating he remembers naught.
Thus what with flaws the truth defeating,
And pleader's impudent brow-beating;
Judges who vary on the case,
Good allegations out of place;
A witness who cannot remember
If 'twas in August or December, —
In short, such ugly cross-grain'd things,
With fifty others, trial brings.
And where's in this the wonder, pray?
Did not a famous judge once say,
That speaking truth deserves as well
Punition, being a libel,
As he who truth doth vilify
By telling a confounded lie?
So from that hour when truth's been stripp'd
In courts for blabbing, she's been whipp'd."

American poets have had very little to say of our subject.

MRS. OSGOOD

wrote the following exquisite poem, entitled "A Flight of Fancy : " —

"At the bar of Judge Conscience stood Reason arraigned,
The jury impanelled — the prisoner chained:
The judge was facetious at times, though severe,
Now waking a smile, and now drawing a tear, —
An old-fashioned, fidgety, queer-looking wight,
With a clerical air, and an eye quick as light.

'Here, Reason, you vagabond! look in my face:
I'm told you're becoming a real scapegrace.
They say that young Fancy, that airy coquette,
Has dared to fling round you her luminous net;
That she ran away with you, in spite of yourself,
For pure love of frolic — the mischievous elf.

'The scandal is whispered by friends and by foes,
And darkly they hint, too, that when they propose
Any question to your ear, so lightly you're led,
At once to gay Fancy you turn your wild head;
And she leads you off in some dangerous dance,
As wild as the polka that galloped from France.

'Now up to the stars with you, laughing, she springs,
With a whirl and a whisk of her changeable wings;
Now dips in some fountain her sun-painted plume,
That gleams through the spray, like a rainbow in bloom;
Now floats in a cloud, while her tresses of light
Shine through the frail boat and illumine its flight;
Now glides through the woodland to gather its flowers;
Now darts like a flash to the sea's coral bowers;
In short, cuts such capers, that with her I ween
It's a wonder you are not ashamed to be seen!

'Then, she talks such a language! — melodious enough,
To be sure — but a strange sort of outlandish stuff!
I'm told that it licenses many a whopper,
And when once she commences no frowning can stop her;
Since it's new — I've no doubt it is very improper!
They say that she cares not for order or law;
That of you — you great dunce! — she but makes a cat's
paw.

I've no sort of objection to fun in its season,
But it's plain that this Fancy is *fooling* you, Reason!'

Just then into court flew a strange little sprite,
With wings of all colors and ringlets of light!
She frolicked round Reason, till Reason grew wild,
Defying the court and caressing the child.
The judge and the jury, the clerk and recorder,
In vain called this exquisite creature to order; —
'Unheard of intrusion!' They hustled about
To seize her; but wild with delight at the rout,
She flew from their touch like a bird from a spray,
And went waltzing and whirling and singing away!

Now up to the ceiling, now down to the floor!
Were never such antics in court-house before!
But a lawyer, well versed in the tricks of his trade,
A trap for the gay little innocent laid:
He held up a *mirror*; and Fancy was caught
By her image within it, so lovely she thought, —
What could the fair creature be! — bending its eyes
On her own with so wishful a look of surprise!
She flew to embrace it: the lawyer was ready;
He closed round the sprite a grasp cool and steady:
And she sighed, while he tied her two luminous wings,
'Ah! Fancy and Falsehood are different things!'

The witnesses, — maidens of uncertain age,
With a critic, a publisher, lawyer, and sage, —

All scandalized greatly at what they had heard
 Of this poor little Fancy (who flew like a bird),
 Were called to the stand, and their evidence gave :
 The judge charged the jury, with countenance grave ;
 Their verdict was ' guilty : ' and Reason looked down
 As his honor exhorted her thus, with a frown : —

' This Fancy, this vagrant, for life shall be chained
 In your own little cell, where *you* should have remained ;
 And you — for *your* punishment — jailer shall be :
 Don't let your accomplice come coaxing to me !
 I'll none of her nonsense — the little wild witch !
 Nor her bribes — although rumor does say she is rich.

' I've heard that all treasures and luxuries rare
 Gather round at her bidding, from earth, sea, and air ;
 And some go so far as to hint, that the powers
 Of darkness attend her more sorrowful hours.
 But go ! ' and Judge Conscience, who never was bought,
 Just bowed the pale prisoner out of the court.

' Tis said that poor Reason next morning was found
 At the door of her cell, fast asleep on the ground,
 And nothing within, but one plume rich and rare,
 Just to show that young Fancy's wing once had been there.
 She had dropped it, no doubt, while she strove to get
 through
 The hole in the lock, which she could not undo."

BRYANT,

who was unsuccessful as a lawyer and early abandoned
 the profession, in his charming poem, " Green River,"
 regrets that he is

" Forced to drudge for the dregs of men,
 And scrawl strange words with a barbarous pen."

EPIGRAMS.

MARTIAL.

THIS Roman poet satirized the tedious and irrelevant orations of lawyers, in an epigram on Postumus, an advocate ; the cause of action being trover for the conversion of three kids : —

“ Tu Cannas, Mithridaticumque bellum,
Et perjuria Punici furoris,
Et Sullas, Mariosque, Muciosque,
Magna voce sonas, manuque tota, —
Jam dic, Postume, de tribus capellis.”

This has been thus imitated by Hay : —

“ My cause concerns not battery nor treason :
I sue my neighbor for this only reason,
That late three sheep of mine to pound he drove ;
This is the point the court would have you prove.
Concerning Magna Charta you run on,
And all the perjuries of old King John ;
Then of the Edwards and Black Prince you rant,
And talk of John o’ Stiles and John o’ Gant ;
With voice and hand a mighty pother keep :
Now pray, dear sir, one word about the sheep.”

This has been again imitated : —

"A weighty lawsuit I maintain :
 'Tis for three crab-trees in a lane.
 The trees are mine, there's no dispute ;
 But neighbour Quibble crops the fruit.
 My counsel Bawl, in studied speech,
 Explores, beyond tradition's reach,
 The laws of Saxons and of Danes ;
 Whole leaves of Doomsday Book explains ;
 The origin of tithes relates,
 And feudal tenures of estates.
 If now you've fairly spoke your all,
 One word about the crab-trees, Bawl !"

And again, in a translation from the French of La Harpe : —

"About three sheep that late I lost,
 I had a lawsuit with my neighbour ;
 And Glibtongue, of our bar the boast,
 Pleaded my cause with zeal and labour.
 He took two minutes first to state
 The question that was in debate ;
 Then showed, by learn'd and long quotations,
 The law of nature and of nations ;
 What Tully said, and what Justinian,
 And what was Puffendorf's opinion.
 Glibtongue, let those old authors sleep,
 And come back to our missing sheep."

I have tried my own hand at Martial thus : —

On Cannæ's fatal field, and Mithridate's war,
 And all the perjuries of Carthaginian fury,
 And Sullas, Mariuses, Muciuses, by the score,
 With loud voice and sweeping hand you harangue the jury.
 Your rhetoric irrelevant good sense forbids :
 The action, Postumus, is trover for three kids.

The following is to Rufus, on a pretended lawyer : —

“He whose left arm loaden with books you see,
And throng'd with busy clerks to that degree,
Whose face composed attentively does hear
Causes and suits poured in at either ear,
Most like a Cato, Tully, or a Brutus,
If put upon the rack, could not salute us,
In Latin, with ‘good-morning,’ nor in Greek ;
And if thou doubt the truth, let’s to him speak.”

To Gargilianus : —

“For twice ten years you to the hall resort,
And now pursue your cause in the third court :
Would any madman let a process last
For twenty years, who sooner could be cast ?”

Thus imitated : —

“Full twenty years through all the courts,
One craving process George supports.
You’re mad, George — twenty years ! you’re mad :
A nonsuit’s always to be had.”

The three courts were the old Roman court, that of Julius Cæsar, and that of Augustus. The following is to Titus : —

“Thou urgest me to plead, and dost repeat,
‘How great the gain when you the wrong defeat !’
That which the ploughman does is also great.”

But the ploughman has to *share* his gains.

“Cinna, is this to plead ? and wisely say
Only nine words in ten hours of the day ?
But with a mighty voice thou crav’s’t for thee
The hour-glass twice two times reversed to be.
Cinna, how great’s thy taciturnity !”

To Naevolus : —

"Still in a crowd of noise thy voice is heard,
Thou think'st thyself a lawyer for thy prattle :
In this account each man that wears a beard
May be as wise. Lo, all men peace! Now prattle."

"Seven glasses, Cecilian, thou loudly did'st crave :
Seven glasses the judge full reluctantly gave.
Still thou bawl'st, and bawl'st on, and as ne'er to bawl off,
Tepid water in bumpers supine dost thou quaff.
That thy voice and thy thirst at a time thou may'st slake,
We entreat from the glass of old Chronos thou take."

I.e., drink from the water-clock itself.

"You said, ten guineas when your cause was done :
What! do you think to fob me off with one?
Now you pretend that I could nothing say —
The more you owe, my blushes to repay."

On a lawyer turned farmer : —

"A little farm you purchase near the town,
With a poor timber house, just dropping down,
And business quit, a better farm by far —
I mean the certain profits of the bar.
Of wheat, oats, beans, and barley, large supplies
The lawyer got; which now the farmer buys."

PETRONIUS ARBITER.

"Quisquis habet nummos segura naviget aura
Fortunamque suo temperet arbitrio.
Uxorem ducat Danaen, ipsumque licebit
Acrisium jubeat credere, quod Danaen.
Carmina componat, declamet, concrepet, omnes
Et peragat causas, sitque Catone prior.
Juris consultus *paret*, *non paret*, habeto,
Atque esto, quidquid Servius et Labeo.

Multa loquor : quidvis nummis præsentibus opta ;
Et veniet : clausum possidet arca Jovem."

I have tried my hand at the above as follows : —

He who has wealth may sail with fav'ring wind,
And temper Fortune's laws to suit his mind ;
In Danæ's lap may pour the golden shower,
And satisfy Acrisius with the dower ;
Make laws, declaim, his fingers snap, despatch
All suits, and Cato's dignity o'ermatch.
Let lawyers say, *I see*, or *I don't see*,
And be, like Servius, his who pays most fee.
Ask what you please ; 'twill come for ready pelf :
The money-box encloses Jove himself.

By Sir John Davies : —

"Publius, student at the common law,
Oft leaves his books, and for his recreation
To Paris Garden doth himself withdraw,
Where he is ravisht with such delectation,
As downe among the bears and dogs he goes,
Where, whilst he skipping cries, to head, to head,
His satten doublet and his velvet hose
Are all with spittle from above bespread.
When he is like his father's country hall,
Stinking with dogges, and muted all with hawkes ;
And rightly, too, on him this filth doth fall,
Which for such filthy sports his bookes forsakes,
Leaving old Ploydon, Dier, and Brooke alone,
To see old Harry Hunks and Sacarson."¹

The next four are from "Fasciculus Florum, or a Nosegay of Flowers, translated out of the Garden of several Poets and other Authors." London, 1636 : —

¹ Names of two celebrated bears.

"This kind of course much profit doth them draw ·
 Their purple and their jewels sell their law ;
 So needful 'tis with greater voice to live,
 And greater show, that men large Fees may give."

The following verses, translated from Latin, were presented to learned King James in Bacon's time, and gained at his royal hands the poor delayed suitor the quick despatch of his cause : —

"Thy great Seales, faithfull Keeper, thou didst send
 Vnto (great King) my honest cause to end :
 My Cause he well decreed, but Seale still lacks ;
 So had I Honey, but without the Wax :
 Grant me (my Liege) in favour of my case,
 T' enjoy the whole Hive of your Princely Grace."

"The Satyricall Poet" complains of the corruption of lawyers in his time : —

"If my unhonest Neighbour seize my Lands,
 And Fields of my Forefathers to his hands,
 Dig up the sacred Mere-stone, th' ancient Bound
 Of mine inheritance, and Grand-sires Ground,
 Whereon with Pulse and hallow'd Wafer Cake,
 A yearly Sacrifice I wont to make ;

Or being my Debtor, though damnably
 Forswear the Debt, or payment mee deny,
 Vowing the Bill under his hand and Seal
 Is-Counterfeit, not worth a cockle-shell, —
 Yet I am forced to stay a year from hence,
 Till Time the People's Common Pleas commence ;
 When that time comes, I then must all's abide
 A thousand trifling put off tricks beside."

This, I think, is imitated from Martial : —

"Get thee to Gallia or to Africa,
 The nurse of Lawyers, if thee list to lay
 Thy Tongue to pawn, and plead for muckle meed,
 And hire out thy voice at a good price indeed."

Epitaph on the gravestone of an attorney in St. Pancras churchyard : —

"Here lieth one, deny it if you can,
 Who, though a lawyer, was an honest man :
 The gates of heav'n to him are open wide,
 But shut, alas ! to all the tribe beside."

An imitation : —

"Entomb'd within this vault a Lawyer lies,
 Who Fame assureth us was just and wise,
 An able advocate, and honest too :
 That's wondrous strange indeed—if it be true."

Another epitaph : —

"Hic jacet Jacobus Straw,
 Who forty years follow'd the law ;
 And when he dy'd,
 The Devil cry'd,
 Jemmy, give us your paw."

On an insolvent barrister : —

"Without effect is *nolo pros.*
 How happens this ? cries one, and pauses :
 His palm no fees were known to cross ;
 Effects can only spring from causes."

Proposed inscription for the Inner-Temple Gate, London : —

"As by the Templars' holds you go,
 The *horse* and *lamb* displayed,

The Consequences of the Fall : —

“ From Adam’s fall behold what sad disasters !
Both us and ours it sells to various masters, —
Our souls to Priests, our body to the Doctors,
Our lands and goods to Pleaders and to Proctors.”

By Furetière. On a statue of Justice removed into the market-place : —

“ Q. Tell me why Justice meets our eye,
Raised in the market-place on high ?
A. The reason, friend, may soon be told :
’Tis meant to show she’s to be sold.”

By Guillaume des Autelz : —

“ Blindfold is Justice drawn, for this,
To show she’s random, hit or miss ;
A sword she bears, — bugbear for those
Sans wit or wealth to ward its blows ;
The pair of scales she’s made to hold
Makes sure that all she gets is sterling gold.”

From Baraton : —

“ ‘ Call silence ! ’ the Judge to the officer cries :
‘ This hub-hub and talk, will it never be done ?
Those people this morning have made such a noise,
We’ve decided ten causes without hearing one.’ ”

On the Law of Libel : —

“ Our statesmen all boast that in matters of treason,
The law of old England is founded on reason ;
But they own that when *libel* comes under its paw,
It is rarely indeed that there’s reason in law.”

“ You may say certain spades are black,
And you may call a spade a spade ;

But if you name a quack a quack,
 By law of libel you are flayed.
 The ace of spades you deem an ace,
 No legal terrors then you brave;
 But 'tis with cards alone the case,
 That you may call a knave a knave."

On a Briefless Barrister : —

" If to reward them for their various evil,
 All lawyers go hereafter to the Devil,
 So little mischief thou dost from the laws,
 Thou'lt surely go below without a cause."

On the statue in Clement's Inn of a negro supporting
 a sun-dial : —

" In vain, poor sable son of woe,
 Thou seek'st the tender tear;
 For thee, alas ! it still must flow,
 For mercy dwells not here.
 From Cannibals thou fled'st in vain,
 Lawyers less quarter give :
 The first won't eat you till you're slain,
 The last will do't alive."

" The law decides questions of *Meum* and *Tuum*,
 By kindly arranging to make the thing *Suum*."

" When we've nothing to dread from the law's sternest
 frowns,
 How we smile at the barristers' wigs, bands, and gowns ;
 But no sooner we want them to sue or defend,
 Than their laughter begins, and our mirth's at an end."

By Jekyll : —

" The sergeants are a grateful race ;
 Their dress and language show it :

| Their purple robes from Tyre we trace,
 | Their arguments go to it."

On a part of St. Mary's Church at Oxford being converted into a law-school : —

" Yes, yes, you may rail at the Pope as you please,
 But trust me that miracles never will cease.
 See here — an event that no mortal suspected !
 See Law and Divinity closely connected !
 Which proves the old proverb, long reckon'd so odd,
 That the nearer the church the farther from God."

Seven good things requisite before going to law : —

" Dear Tom, take advice, nor commit a *faux pas* ;
 As you travel through life, never get into law :
 The odds are against you a million to one,
 'Tis a horse to a hen that you're quickly undone ;
 And if there's no help, and to law you must go,
 Indispensables seven 'tis fit you should know.
 And first you'll be wise to reflect well and pause,
 And be sure, ere you stir, you have a good cause.
 Like your cause, your attorney should also be good —
 A *sine qua non* — it is well understood.
 Your jury besides must be good and not packed,
 And by a good counsel your cause must be backed :
 A good witness and staunch, too, you'll certainly need ;
 If in this point you fail, Tom, you cannot succeed.
 To make all secure, ere an inch more you budge,
 You'll be lost if you haven't a very good judge.
 These are six needful things ; yet fast you'll be stuck,
 And still lose your cause, if you haven't good luck."

On the Lord Advocate : —

" He clenched his pamphlets in his fist,
 He quoted and he hinted,

Till in a declamation mist,
 His argument he tint it;
 He gaped for't, he grasped for't,
 He found it was.awa', man;
 But what his common sense came short,
 He eked out wi' law, man."

The Dying Lawyer : —

"Old Quillit, his race upon earth almost run,
 Thus sagely advised his too diffident son :
 'Like a true limb of law, would you live at your ease,
 Ne'er boggle on any side, lad, to take fees;
 Keep clear of a noose, though you merit to swing,
 And be sure to sell justice for what it will bring.' —
 'Sell justice!' retorted his wondering heir,
 'A thing of such value, so precious, so rare,
 The cement of society, honour's best band —
 Sell justice?' — 'Ay, sell it, and that out of hand,
 You extravagant rascal! If 'tis as you say,
 A thing of such price, would you give it away?'"

On a Briefless Barrister, recovered from illness : —

"On his sick-bed as Simple lay, —
 A novice in the laws, —
 The hopeless youth was heard to say,
 'How cruel to be snatched away,
 And die without a cause!'
 Jove, pitying, hears : his gracious nod
 The youth from death reprieves.
 Yet, with submission to the god,
 His case is still extremely odd, —
 Without a cause he lives."

A Verbal Distinction : —

"A counsel once of talents vain,
 A Quaker rudely treated,

Who often in his story plain
The word '*also*' repeated.

'Also!' said Brief, with sneering wit,
'Won't *likewise* do as well?'—
'No, friend; but if thou wilt permit,
Their difference I will tell.

'Scarlett's a counsel learned, we know,
Whose talents oft surprise:
Thou art a counsel, friend, *also*,
But surely not *like-wise*.'"

From the Latin of Bocchius:—

"Alexander in judgment was sitting one day,
And was seen with his right ear attention to pay
To the plaintiff, but purposely block up the way
To the left with his finger. Said he
To his retinue, asking him why this was done,
'My other ear, sure, if the plaintiff gets one,
The defendant's a right to have free.'"

The next two are from "Satyricall Epigrams," compiled by Henry Hutton, 1621:—

An Action of the Case:—

"Shouldring a minstrell in a lane I broke
His viol's case by an unlucky stroke;
Who swore he would complaine, to vent his grudge.
And what care I what any law will judge?
For why: I will maintaine it face to face,
'T can be no more but th' action of the case."

In Causidicum:—

"Causidicus wears patch'd cloathes, some bruit,
And must do so, for he has nere a suite."

The Suit Ended : —

“Ten pence recovered! ten pounds spent in cost!
You say I’ve gained my suit: I say I’ve lost.”

Two of a trade : —

“How fitly joined, the lawyer and his wife!
He movés at bar, and she at home, the strife.”

I translate the next epitaph from the French of
Borde : —

“Here lies a law solicitor profoundly wise,
Who seventy years to pillage others’ goods descended.
He mourns, if from the other world he recognize
That you read free of charge these lines for him in-
tended.”

From the Greek of Lucillius : —

“I lost a little pig, an ox, a goat,
For which you, Meneclés, received a groat,
In small retainer — neither I nor these
Have aught in common with Orthryades:
My thieves I trace not to Thermopylæ;
Against Eutychides is this our plea:
Why Xerxes bring again on Grecian grounds?
And Lacedaemon with my loss confound?
The facts, the law, or else I raise loud cries —
So Meneclés! — the rest my pig supplies.”

The above reminds us of Martial. The next two are
from the Greek of Agathias : —

“Blind to law’s use and wont. Fool! not to know
That we to men corrupt must judgment owe:
Thou boasted thy shrewd eloquence, whose fire
Knows in best words right issue to inspire.

Hope on! I pardon thee; but vain and strange,
Thy genius serves not Themis' course to change."

A judgment as profound as Bunsby's: —

"A poor man a learned sergeant sought and saw,
And questioned him upon this point of law:
'My slave-girl ran away; her some one found,
And knowing her another's chattel, bound
In marriage to his man, to whom she gave
Issue: of whom now is that issue slave?'
He ponder'd, and deep por'd in many a book.
Then, turning his arch'd brow, with solemn look,
'To you or him who has the slave-girl now,
Her issue here in case as slave must bow:
But seek out some wise judge; you'll quickly gain
His weightier voice, if true what you explain.'"

Another version of the same: —

"A plaintiff thus explained his cause
To counsel learned in the laws:
'My bond-maid lately ran away,
And in her flight was met by A,
Who, knowing she belonged to me,
Espoused her to his servant B.
The issue of this marriage, pray,
Do they belong to me or A?'
The Lawyer, true to his vocation,
Gave signs of deepest cogitation,
Look'd at a score of books, or near,
Then hemm'd, and said, 'Your case is clear:
Those children, so begot by B
Upon your bond-maid, must, you see,
Be yours or A's. Now this I say,
They can't be yours if they to A

Belong : it follows then, of course,
 That if they are not his, they're yours.
 Therefore, by my advice, in short,
 You'll take the opinion of the court.'"

From the Greek of Nicardeus : —

"Two persons deaf as posts invok'd the laws ;
 A judge than either deafer tried the cause :
 One said the other owed him five months' rent,
 One that all night in mill-work he had spent.
 'Wherefore contend ye?' frowning said the Court,
 'Of both the mother, both must her support.'"

This was translated into Latin by Sir Thomas More.
 Another version of the same : —

"A deaf man cited his deaf neighbour
 Before a judge as deaf, to ground
 A debt unpaid for quarter's labour :
 Defendant swore, so far from sound,
 That mites were swarming in the cheese.
 The judge, whose mind suspended stood,
 At last decreed the marriage good,
 And then dismissed them both to pay the fees."

From Borbonius : —

"A thief once consulted a lawyer of note,
 How best to ensure from the halter his throat.
 Said the sage, as he pocketed gravely his fee,
 'Run away if you can, and perhaps you'll be free.'"

On the Law of Custom, founded on fact. From an
 obscure Albany poet : —

"A western New-York judge of sterling mental stuff,
 Of shaven upper lip, of manners coarse and rough,

Disdaining all such foppery as clean apparel,
 Once with a young attorney sought to pick a quarrel,
 And with ill-timed severity in court did lash
 Th' offending youth because he sported a mustache, —
 Saying, ' Young man, that dirty hair about your mouth
 You didn't wear till you from Buffalo went south,
 And left plain folks like us for the metropolis.'

The bashful but deserving youth blushed deep at this,
 But held his tongue, and bowing low to the rebuke,
 Waited till summing up, when thus revenge he took :
 ' The point is, gentlemen, whether a custom's proved,
 With reference to which these parties are supposed
 T' have contracted, — one, 'tis said, to Buffalo,
 Peculiar and unknown as further south you go.
 Such case may easily be, for from his honor's talk
 You learn what's strange to you is common in New York.
 With us they let the beard grow on the upper lip,
 But this subjects one here to a judicial nip ;
 No custom's universal, but customs vary
 With each degree of latitude in which you tarry ;
 A New-York judge takes pride in keeping free from dirt —
 Not so with judges here — look at his honor's shirt !'
 The bar with loud applause greeting this pithy one,
 Acknowledged G——r met his match in F——n."

The next seven are from "Recreation for Ingenious
 Head-Pieces, or a Pleasant Grove for their Wits to Walk
 in," etc. London, 1667 : —

"Loquax, to hold thy tongue would do thee wrong,
 For thou wouldst be no man but for thy tongue."

"If Lawyers had for Term a term of war,
 Souldiers would be as rich as Lawyers are ;
 But here's the difference 'tween Guns and Gowns,
 These take good *Angels*, th' other take *crackt Crowns*."

"Our Civil Law doth seem a Royal thing,
It hath more titles than the Spanish king;
But yet the Common Law quite puts it down,
In getting, like the Pope, so many a Crown."

"A lusty old gown-grave, gray-headed Sire,
Stole to a wench to quench his lust's desire:
She ask'd him what profession he might be?
I am a Civil Lawyer, girle (quoth he).
A Civil Lawyer, Sir! you make me muse,
Your talk's too broad for civil men to use:
If Civil Lawyers are such bawdy men,
O what (quoth she) are other Lawyers then?"

"Law serves to keep disordered men in aw,
But *Aw* preserves orders and keeps the Law:
Were *Aw* away *L (aw) yers* would lyers be
For *Lucre*, which they have and *hold in fee*."

"To go to Law I have no maw,
Although my suite be sure;
For I shall lack suits to my back,
Ere I my suit procure."

Upon Anne's marriage with a Lawyer: —

"Anne is an Angel — what if so she be?
What is an Angel but a Lawyer's fee?"

The next twenty-six are from Owen's Latin Epigrams: —

"If happy's he who knows of things the cause,
How happy thou Cause-Pleader with Applause."

"Lawyers are prudent, provident beside;
For prudently they for Themselves provide."

"Physicians and Lawyers in their Trade
Are like, their gain of others' loss is made:
To Patients these, to Clients those, apply
Their helping hand, and help themselves thereby."

"A man lies with a Wife, which is his own,
Whom he supposed Another's, till 'twas known:
Whether the Child by such mistake begot,
Be spurious, legitimate, or not?"

"No Terms determine, no Vacations vain,
Thou wholly Vacant art, by Strifes to gain."

"Rome had one God, called *Terminus* of old;
But Westminster more Terms than one doth hold."

To the Lord Chancellor: —

"Lest Force, the greatest Enemy to Law,
Should violate it, Law keeps Force in awe;
But thou the Law's Extreame hast pow'r t' abate,
And in the Chancery to moderate."

"Thou pleadest for thyself, not client; he
Not for himself, but brings his Gold for thee:
The certain Laws uncertain Causes cross;
Thou sure of gain, thy Client's sure of loss."

"Pontilian, thee Christ'pher sues at Law;
Not thee, but money 'tis from thee to draw."

To a Lawyer: —

"Part of thy Life thou to thy wife dost give,
Part to thy Client: When to thyself wilt live?"

"Thou shalt not steal, this Law's for Lawyers writ:
Thou shalt not kill, this for Physician's fit."

"Though Cicero call Law the sum of Reason,
And that Law's best which thence proceeds in season :
Few Lawyers are Logicians ; use Example,
The Laws and Statutes are of either Temple."

The Four Terms at Law : —

"The first Term's from St. Michael declar'd,
For now the Arch-Angel¹ doth the Lawyer guard :
The next is Hilary ; this Term doth cause
The Lawyers hilarity by the Laws.
The third from Easter feast its title took :
The Lawyer's Dockets are like the Easter Book.²
The fourth Term's called Trinity ; but why ?
Because each cause hath a Triplicity."³

"Wert not cause-maker, thou, thy need to serve,
Thou, no cause-pleader, might'st for hunger starve."

"Kings, Shepherds ; People, Sheep ; Laws, Fodder, are :
For sick Sheep, Doctors, Kings, Law's cure prepare."

"I many Penal statutes, Fronto, saw,
But not one Premial in all your Law :
Laws Penal, Premial, support a state ;
This age hath lost the last : the first's in date."

"Hast care to cure, and to secure thy cause ?
Incline then, Client, to thy Lawyer's Laws."

"God t' Adam gave a Law before his Sin :
Ill manners, therefore, all Laws brought not in."

"A Judge, who to be just, on bribes doth look,
Is like a Fish, which, while it takes, is took."

¹ The gold coin. ² The parson's Easter Book. ³ Client, lawyer, judge.

"We have one Advocate in Heav'n, saith Paul:
Are no more Advocates within that Hall?"

"We many Laws have made, almost not any;
For if not any kept, what's good so many?
That Laws be kept, this one more Law ordain,
Which, if soon marr'd, will soon be made again."

"Wonder'st the Judges' Ears are shut to thee,
When unto them thine hands not open be?"

"If Judge to thee be deaf, thy cause is lost;
Thy gain is vain Experience with cost:
'Tis better Judges please than plead the Laws;
Those before them indulge unto thy Cause."

"If mortals would as nature dictates live,
They need not Fees to the Physicians give:
If men were wise, they need not have their Cause
Pleaded, prolong'd by th' ambiguous Laws.
So Bartolus might (Feeless) go to bed,
And mice corrode Hippocrates unread."

"The way to Law than Justice more we trace,
Though this the shorter, that's the longer, Race."

"To take a thing without the Lord's consent
Is theft. What if the lady be content?"

This is from Thomas Pecke's "Heroick Epigrams,"
London, 1659:—

"The study of the Laws did Galba please
Better than other charming Sciences.
When Princes want the Knowledge of the Law,
'Tis Tyranny, not Reason, keeps in Awe."

By the same :—

“Law is a well.

Men are the thirsty buckets, which receive
More or less Water, as Reason gives Leave.
There's an Eternal Spring.”

“Certain set forms, fixt in the Memory,
Almost accomplish for the chancery.”

From Sir Walter Raleigh's “Pilgrimage : ” —

“From thence to Heaven's bribeless Hall,
Where no corrupted voices brawl,
No Conscience molten into Gold,
No forg'd Accuser bought or sold,
No cause deferr'd, no vain-spent journey;
For there Christ is the King's attorney,
Who pleads for all without degrees;
And he hath Angels, but no Fees:
And when the grand twelve million Jury
Of our sins, with direfull fury,

'Gainst our Souls black verdicts give,
Christ pleads his Death, and then we live.
Be thou my Speaker, taintless Pleader,
Unblotted Lawyer, true Proceeder!
Thou giv'st Salvation even for Alms, —
Not with a bribed Lawyer's Palms.”

On seeing a law-book, bound in uncolored calf, and
white edges : —

“With unstain'd edges and in spotless calf,
A Law book bound must make a stoic laugh;
For in that striking emblem you may see
Not what the law *is*, but what the Law *should* be:
A Law book thus in the Law Livery drest,
Is like a Jesuit in a Layman's vest;

'Tis like a strumpet cloath'd in spotless white;
 'Tis like a bitter apple, fair to sight;
 'Tis like a simple Quaker, plain and neat,
 That with his yeas and noes is sure to cheat;
 'Tis like a pirate that false colours shows,
 Or Hecla's flames concealed in virgin snows;
 'Tis like, in short, 'tis like Dan Milton's sin,
 All fair without, but monstrous foul within."

"A Justice, walking o'er the frozen Thames,
 The ice about him round began to crack:
 He said to's man, 'Here is some danger, James;
 I pr'ythee, help me over on thy back.'"

On a counsellor having his hat stolen in Westminster Hall: —

"Should'st thou to Justice, honest thief, be led,
 Swear that you stole his hat who had no head:
 That plea alone all danger shall remove,
 Nor judge nor jury can the damage prove."

By Mrs. Madan, in her brother's "Coke upon Lyttleton: " —

"O thou, who labour'st in this rugged mine,
 May'st thou to gold th' unpolished ore refine!
 May each dark page unfold its haggard brow!
 Doubt not to reap, if thou canst bear to plough.
 To tempt thy care, may each revolving night
 Maces and purses swim before thy sight!
 From hence, in times to come, adventurous deed!
 May'st thou essay to look and speak like *Mead*!
 When the black bag and rose no more shall shade
 With martial air the honours of thy head;
 When the full wig thy visage shall enclose,
 And only leave to view thy learned nose, —

Safely may'st thou defy wits, beaux, and scoffers,
While tenants, in fee simple, stuff thy coffers !”

Epitaph on a magistrate who had formerly been a barber : —

“ Here lies Justice : be this his truest praise ;
He wore the wig which once he made,
And learnt to shave both ways.”

From Herrick : —

“ Dead falls the cause, if once the hand be mute ;
But let that speak, the client gets the suit.”

By the Earl of Orrery : —

“ For that is made a righteous law by time,
Which law at first did judge the highest crime.”

“*Tua Cæsar Ætas*” was Justice Aston’s motto on the rings which he distributed on being made a judge of the king’s bench ; this epigram was thereupon made : —

“ All, all, is Cæsar’s, new-rob’d Aston cries :
All, all, is Cæsar’s, the King’s Bench replies.
Poor people, you have nothing left, we see,
Since all is Cæsar’s which belong’d to me.”

Epitaph from the Latin of Theodore Beza : —

“ O fickle Fortune, cruel, heartless jade !
This brawler who his voice his fortune made,
Summoned to plead in Rhadamanthus’ court,
Finds what he sold before must now be bought.”

By Swift : —

“ Here lies Judge Boate within a coffin :
Pray, gentlefolks, forbear your scoffing.

A Boat a judge ! yes, where's the blunder ?
 A wooden judge is no such wonder.
 And in his robes, you must agree,
 No boat was better deckt than he.
 'Tis needless to describe him fuller :
 In short, he was an able skuller."

Anonymous : —

" Here lies Lawyer Lag, in a woeful condition,
 Who once was a law-man, now turn'd politician ;
 Alive, he a Templar was, keeping his terms ;
 And dead, he makes one in the Diet of Worms."

" He practiced virtue, pleaded for the right,
 And ran the race that all men try to win :
 He lightened many an over-burdened wight ;
 And if a stranger came, he took him in."

By Ben Jonson : —

" No cause, nor client fat, will Cheveril leese ;
 But as they come, on both sides he takes fees,
 And pleaseth both ; for while he melts his grease
 For this, that wins for whom he holds his peace."

By Lindsay (a friend of Dean Swift ; a judge, and an elegant scholar) : —

" A slave to crowds, scorch'd with the summer's heats,
 In courts the wretched lawyer toils and sweats ;
 While smiling Nature, in her best attire,
 Regales each sense, and vernal joys inspire.
 Can he who knows that real good should please,
 Barter for gold his liberty and ease ?'
 Thus Paulus preach'd : When, entering at the door,
 Upon his board his clients pour the ore,
 He grasps the shining gifts, pores o'er the cause,
 Forgets the sun, and dozes o'er the laws."

Pope thus translates Boileau's famous oyster case (see p. 215) : —

"Once (says an author, where I need not say),
Two travelers found an oyster in their way :
Both fierce, both hungry, the dispute grew strong ;
While, scale in hand, dame Justice pass'd along.
Before her each with clamor pleads the laws,
Explain'd the matter, and would win the cause.
Dame Justice, weighing long the doubtful right,
Takes, opens, swallows it before their sight.
The cause of strife remov'd so rarely well,
'There, take (says Justice), take ye each a shell.
We thrive at Westminster on fools like you :
'Twas a fat oyster — live in peace — Adieu.'"

"UNION IS STRENGTH."

The following epigram was made at the expense of four lawyers who were in the habit of going together in one coach to Westminster Hall for a shilling the load : —

"Causidici cum felices quatuor uno
Quoque die repetunt limina nota fori,
Quanta sodalitium prestat commodum ! cui non
Contingerint socii cogitur ire pedes."

Four merry lawyers in one carriage ride,
To seek the threshold of the court each day.
Great comforts in such partnerships reside ; —
Were they not cronies, each must foot his way.

JAMES SMITH,

one of the authors of "Rejected Addresses," wrote this epigram, at the expense of lawyers, on the street in which he lived in London : —

"In Craven street, Strand, the attorneys find place;
And ten dark coal-barges are moor'd at its base.
Fly, Honesty, fly! seek some safer retreat:
There's *craft* in the river, and *craft* in the street."

But Sir George Rose came to their rescue in the following extemporaneous after-dinner epigram:—

"Why should Honesty fly to some safer retreat,
From attorneys and barges?—'od rot 'em!
For the lawyers are *just* at the top of the street,
And the barges are *just* at the bottom."

VI.

SONGS, ODES, AND BURLESQUES.

OF A LAWYER AND THE DEVIL.

I TRANSLATE the following from the Latin of a legend of the Middle Ages : " A certain man was a lawyer of different towns, pitiless, grasping, and making great exactions from all in his power. On a certain day, when, for the purpose of exacting tribute, he was hastening to a certain town, the Devil, in the likeness of a man, joined him on his journey ; whom, as well from the horror which he felt as from their conversation, he perceived to be the evil one. He greatly feared to go with him ; but in no way, either by praying, or by making the sign of the cross, could he shake him off. As they walked on together, a certain poor man approached them, leading a pig by a string. And as the pig ran hither and thither, the angry man cried out, ' Devil take thee ! ' Hearing this, the lawyer, hoping that by this means he could free himself from his companion, said to him, ' Listen, friend, that pig is given to thee ; go, seize him.' The fiend responded, ' He is not given to me from the heart, and so I cannot take him.' Then, as they were passing through another place, a baby cried ; and its mother, standing in the door of her house, exclaimed, in a petulant tone, ' Devil take thee ! why dost thou trouble me with thy

crying?' Then the lawyer said, 'See, you are the richer by one soul; take the baby, which is yours.' To whom the Devil, as before, said, 'It is not given to me from the heart, but such is the way of speaking that people have when they are angry.' But as they began to draw near to the town to which they were bound, some men, seeing them afar off from the town, and knowing the occasion of the lawyer's coming, cried out, 'Devil take thee, and go to the Devil!' Hearing this, the fiend, wagging his head and laughing, said to the lawyer, 'Behold, they have given thee to me from the bottom of their hearts; and therefore thou art mine.' And the Devil seized him that very hour, but what he did with him is not known. This conversation and these things are related by a servant of the lawyer, who was with him on the journey."

A curious interview between St. Peter and a lawyer is described in Carr's "*Remarks of the Government of the several Parts of Germanie, Denmark,*" etc. Amsterdam, 1688: "And now, because I am speaking of Pettyfogers, give me leave to tell you a story I mett with when I lived in Rome. Goeing with a Romane to see some Antiquities, he showed a chapell dedicated to one St. Evona, a lawyer of Brittain, who he said came to Rome to entreat the Pope to give the lawyers of Brittain a Patron, to which the Pope replied, that he knew of no Saint but what was disposed of to other Professions. At which Evona was very sad, and earnestly begd of the Pope to think of one for him. At last the Pope proposed to St. Evona that he should goe round the church of St. John de Latera blindfould, and after he had said so many Ave Marias, that the first Saint he layd hold of should be his Patron, which the good old lawyer willingly undertook:

and at the end of his Ave Maryes he stopt at St. Michel's altar, where he layd hold of the Divill, under St. Michel's feet, and cryd out, this is our Saint ; let him be our Patron. So being unblindfolded, and seeing what a Patron he had chosen, he went to his lodgings so dejected, that in a few months after he dyed, and coming to heaven's gates, knockt hard. Whereupon St. Peter asked who it was that knockt so bouldly. He replied that he was St. Evona the advocate. Away, away, said St. Peter ; here is but one Advocate in heaven ; here is no room for you lawyers. O but, said St. Evona, I am that honest lawyer who never tooke fees on both sides, or pleaded in a bad cause ; nor did I ever set my naibours together by the eares, or lived by the sins of the people. Well, then, said St. Peter, come in. This newes coming down to Rome, a witty poet writ on St. Evona's tomb these words : —

‘ St. Evona, un Briton,
Advocat non Larron,
Haleluiah.’ ”

ST. PETER v. A LAWYER.

The following lines are printed on a sheet of foolscap ; and at the head is a cut representing St. Peter opening the gates of heaven to a lawyer demanding an entrance, but whom the saint, on recognizing his profession, refuses to admit. There is no date or author's name : —

“ Professions will abuse each other ;
The priest won't call the lawyer brother ;
While *Salkeld* still beknaves the parson,
And says he cants to keep the farce on.

Yet will I readily suppose
 They are not truly bitter foes,
 But only have their pleasant jokes,
 And banter, just like other folks.
 As thus, for so they quiz the Law,
 Once on a time, the attorney, Flaw,
 A man, to tell you as the fact is,
 Of vast chicane, of course, of practice,
 (But what profession can we trace
 Where some will not the corps disgrace?
 Seduc'd, perhaps, by roguish client,
 Who tempts him to become more pliant),
 A notice had to quit the world,
 And from his desk at length was hurl'd.
 Observe, I pray, the plain narration :
 'Twas in a hot and long vacation,
 When time he had, but no assistance,
 Though great from courts of law the distance,
 To reach the court of truth and justice
 (Where, I confess, my only trust is);
 Though here below the learned pleader
 Shows talents worthy of a leader,
 Yet his own fame he must support,
 Be sometimes witty with the court,
 Or work the passions of a jury
 By tender strains, or full of fury,
 Mislead them all, tho' twelve apostles :
 While with new law the judge he jostles,
 And makes them all give up their pow'rs
 To speeches of at least three hours.
 But we have left our little man,
 And wander'd from our purpos'd plan :
 'Tis said (without ill-natured leaven),
 If lawyers ever get to heaven,
 It surely is by slow degrees
 (Perhaps 'tis slow they take their fees),

The case, then, now I'll fairly state :
Flaw reach'd at last to heaven's high gate ;
Quite spent, he rapp'd, none did it neater.
The gate was open'd by St. Peter,
Who look'd astonish'd when he saw,
All black, the little man of law :
But Charity was Peter's guide ;
For having once himself denied,
His Master, he would not o'erpass
The penitent of any class :
Yet having never heard there enter'd
A lawyer, nay, nor one that ventur'd
Within the realms of peace and love,
He told him, mildly, to remove,
And would have clos'd the gate of day,
Had not old Flaw, in suppliant way,
Demurring to so hard a fate,
Begg'd but a look, tho' through the gate.
St. Peter, rather off his guard,
Unwilling to be thought too hard,
Opens the gate to let him peep in.
What did the lawyer? Did he creep in?
Or dash at once to take possession?
Oh, no! he knew his own profession :
He took his hat off with respect,
And would no gentle means neglect,
But finding it was all in vain
For him admittance to obtain,
Thought it were best, let come what will,
To gain an entry by his skill.
So while St. Peter stood aside
To let the door be open'd wide,
He skimm'd his hat with all his strength
Within the gates to no small length :
St. Peter star'd; the lawyer asked him,
' Only to fetch his hat,' and pass'd him :

But when he reach'd the jack he'd thrown,
 Oh! then was all the lawyer shown:
 He clapp'd it on, and arms a-kembo
 (As if he'd been the gallant *Bembo*),
 Cry'd out, "What think you of my plan?
Eject me, Peter, if you can!"

"THE GENTLEMAN IN BLACK"

is the title of a little volume, published anonymously in London in 1831, with illustrations by Cruikshank. The story is of two young men, English and French respectively, who, having run through their fortunes by dissipation, enter severally into a contract with the Devil, by which they are to have an unlimited supply of money on demand, provided they would sin one second the first year, two seconds the next, double that the third, and so on during life. All the sins committed before and after, over and above the stipulated amount, were to be taken into account. "So that you see," said Lucifer, "not even a hermit need live more immaculately." The scene is laid in the time of the French Revolution. The Englishman, ignorant of the Frenchman's compact, accidentally falls in with his *confrère* in iniquity; and on discovering the similarity of their circumstances, they are as naturally bound together as Dr. Rappaccini's daughter and the young medical student, in Hawthorne's fascinating tale (which see). A jolly time they have for twenty-eight years, when the Devil reminds them that they are in arrears; and it becomes apparent on calculation, that in order to transact the stipulated amount of wickedness for that year, it would require, reckoning sixteen hours to the day, some twenty-three hundred and thirty days.

Looking ahead one or two years added to their perplexity. Right here the Englishman called into requisition the services of old Bagsby, a lawyer, who, after proposing a compromise which the G. in B was not inclined to accept, threatened to throw the business into chancery. "‘Into where?’ cried the gentleman in black, starting upon his legs, upsetting his black snuff-box and black-guard, letting fall his black smelling-bottle, oversetting his black bag, and disarranging his black-edged papers; while his black hair stood erect upon his head, and his black Geneva cloak swelled out rigidly behind, as though thrust forth and supported by a mop-stick. ‘Into chancery,’ repeated old Bagsby gravely: ‘Mr. Ledger will pay the money into court.’—‘From whence it will never come out in my time,’ roared the gentleman in black, like a lion taken in the toils. ‘No, no: I accept the merchant’s offer.’” Cruikshank’s illustration of this scene is very amusing.

Perhaps if the Devil (or the author) had known how strongly courts have always leaned toward the enforcement of contracts similar to the one in question, he would have had less horror of chancery. There is the great leading case of *James v. Morgan, Levinz, 111*, which was an action in special assumpsit, on an agreement to pay for a horse a barleycorn for the first nail in his shoes, and double every other nail, which, as there were thirty-two nails, amounted to five hundred quarters of barley: under the instructions of the court the jury gave as damages the full value of the horse, eight pounds; and it is inferred that the contract was considered valid, from the fact, that on a motion in arrest of judgment, the verdict was affirmed. I know Mr. Story, in his work on Con-

tracts, cites the case as establishing a contrary doctrine ; but he seems to be mistaken. Then, too, there is the other great case of *Thornborow v. Whiteacre*, 2 Lord Raymond, 1164, in which the court on demurrer were inclined to hold good a contract to deliver, in consideration of 2*s.* 6*d.* paid, and 4*l.* 17*s.* 6*d.* to be paid, two rye-corns on the then next Monday, and double every succeeding Monday for a year, which would have required the delivery of more rye than was grown in the whole year ; the judge observing, that although the contract was a foolish one, yet it was good in law, and the defendant ought to pay for his folly : but the case was compromised, and no judgment was given. But on the question of the tediousness of chancery the Devil and the author are sound ; for that institution seldom failed to ruin one party to the litigation, and frequently ruined both.

Hearing of his friend's escape, the Frenchman, after fruitless endeavors to interest the clergy in his behalf, retains Bagsby to effect his discharge. The G. in B., learning this, endeavors to seduce the lawyer from his client, and to act for him. Bagsby refuses to listen until he shall receive a retaining-fee. The Devil thereupon pulls out an immensely long and serpentine purse, one end of which still seems hid in his pocket : and the lawyer's virtue begins to ooze out, when some callers interrupt them, and the purse rushes like a live thing into its owner's pocket ; it was, in fact, a *fee tail* : and the owner disappears. The picture of this feeing scene is enough to make a lawyer sigh at its improbability.

In the discharge of his duty to his French client, Bagsby goes to France, and is there associated with a Jesuit,

a friend of the Frenchman. The Devil observes, "A double-tongued Jesuit, and an old, wily, slippery, English lawyer! Fearful odds! What chance have *I* between them? I don't feel myself at all comfortable." So great is his dread of this partnership of law and religion, that he accedes without much demur to Bagsby's proposition, to compromise the affair, by having his client pay back half the moneys, and the Devil remit half the sins, and at the end of fourteen years the question to be resumed as left on that day. Bagsby draws up an interminable instrument, which the Devil has not the patience to read, but seeing the heads are right, executes and delivers it, and receives a check for half his moneys. Thereupon he goes into a fit of immoderate laughter, and informs Bagsby that his principal reason for postponing his claim fourteen years is the hope that the lawyer will then be dead. "*Literæ scriptæ manent*," responds Bagsby, and explains that the instrument reserves to his client the option of cancelling whichever half of the eight and twenty years he pleases, and that of course he will cancel the first half, and will have no difficulty in sinning one second on the first year of the renewed claim, and double each succeeding year, especially as he will have the advantage of the clause in the original contract giving credit for extra sinning before or after, and will thus be credited with the sins of the latter half of the term. "So, altogether, if he makes proper use of the money yet remaining in his hands, what with interest and compound interest, I think you might almost as well be in chancery!" The Devil curses his imprudence in dealing without his own lawyer; but finally his admiration of the trick overcomes his anger, and he says, "I will do myself the pleasure of

calling upon you at Lyon's Inn ere long. I admire your talents, and shall cultivate a more intimate acquaintance ; for you have convinced me, that notwithstanding a considerable portion of self-conceit to which I plead guilty, I have yet much to learn. People say that I have a very extensive circle of friends among gentlemen of your profession, but I assure you that the report is not to be relied on. Indeed, considering the facilities of introduction which I possess, and the inducements I frequently have in my power to hold out, I am often surprised that I have not more on my list."

An appropriate tail-piece to this entertaining volume represents the gentleman in black hanged by his caudal member to a gallows.

The author of "The Gentleman in Black " was not the only one who thought that lawyers were a match for his Satanic Majesty, as the following song bears witness : —

"A lawyer, quite famous for making a bill,
And who in good living delighted,
To dinner one day with hearty good will
Was by a rich client invited.
But he charged six and eightpence for going to dine,
Which the client he paid, tho' no ninny,
And in turn charged the lawyer, for dinner and wine,
One a crown, and the other a guinea.
But gossips, you know, have a saying in store,
He who matches a lawyer has only one more.

The lawyer he paid it and took a receipt,
While the client stared at him with wonder.
With the produce he gave a magnificent treat,
But the lawyer soon made him knock under.
That his client sold wine, information he laid,

Without license ; and spite of his storming,
The client a good thumping penalty paid,
And the lawyer got half for informing.
But gossips, you know, have a saying in store,
He who matches a lawyer has only one more."

In the "Herdsman's Happy Life," found in Byrd's Songs (1588), we read, —

"For lawyers and their pleading
They 'steem it not a straw ;
They think that honest meaning
Is of itself a law ;
Where conscience judgeth plainly,
They spend no money vainly."

In another old ballad, called "Robin Conscience," we find the following : —

"Thus banished from the court I went,
To Westminster incontinent,
Where I alas was sorely spent
for coming :
The lawyers did against me plead ;
'Twas no great matter,' some there said,
'If Conscience quite were knock'd in th' head :
then musing,
From them I fled with wingèd haste ;
They did so threaten me to baste,
Thought it was vain my breath to waste
in counsel.
For lawyers cannot me abide,
Because for falsehood I them chide ;
And he that holds not on their side
must down still."

"MICHAELMAS TERM"

is the title of an ancient broadside ballad preserved in the British Museum. The benefits derived by people of various occupations at this season are described, and lawyers come in for a share : —

"Some attornies, and some that sollicite law cases,
That at the vacation in the country plods,
They, like to King James, can use double faces,
And bribe to set neighbor with neighbor at odds.
Now hither they come, with their bags full of law ;
But the profits they all to themselves do confirm :
Although it be but for a trusse of rye straw,
The case must be try'd at Michaelmas term.

.

The lawyers' hands are still itching for fees,
Which makes the plain husbandman let out his farm,
To come up to London to eat bread and cheese,
While lawyers eat roast meat in Michaelmas term."

"Law, a Comic Song," set to the music of Malbrook,
is perhaps old enough to bear resuscitation : —

"Come list to me a minute,
A song I'm going to begin it :
There's something serious in it,
So, pray, attention draw.
'Tis all about the Law,
So, pray, attention draw.
Experience, I have bought it,
And now to you I've brought it :
Will you or not be taught it ?
I sing the charms of Law.
L-A-W — law,
Which has met with a deuce of éclat.

If you're fond of pure vexation,
And long procrastination,
You're just in a situation
To enjoy a suit at law.

When your cause is first beginning,
You only think of winning;
Attorneys slyly grinning,
The while the cash they draw.
Your cause goes on see-saw,
As long as your cash they draw.
With brief and consultation,
Bill and replication,
Latin and — botheration,
While the counsel loudly jaw;
J-A-W — jaw,
Is a very great thing in law.
If you're fond, etc.

Snail-like your cause is creeping,
It hinders you from sleeping:
Attorneys only reaping,
For still your cash they draw;
D-R-A-W — draw,
Is the mainspring of the law.
Misery, toil, and trouble
Make up the hubble bubble,
Leave you nothing but stubble,
And make you a man of straw.
L-A-W — law,
Divides the wheat from the straw.
If you're fond, etc.

And when your cause is ending,
Your case is no way mending,
Expense each step attending;

And then they find a flaw.
 Then the judge, like any jack-daw,
 Will lay down what is Law.
 In a rotten stick your trust is,
 You find the bubble burst is ;
 And though you don't get justice,
 You're sure to get plenty of Law.
 And L-A-W — law,
 Leaves you not worth a straw.
 If you're fond, etc.

So if life is all sugar and honey,
 And fortune has always been sunny,
 And you want to get rid of your money,
 I'd advise you to go to law.
 Like ice in a rapid thaw,
 Your cash will melt awa'.
 Comfort 'tis folly to care for,
 Life's a lottery — therefore
 Without a why or a wherefore,
 I'd advise you to go to law ;
 And L-A-W — law,
 Does like a blister draw.
 If you're fond, etc."

A case of crim. con. : —

"The charge prepared, the lawyers met,
 The judges on the benches wriggling :
 Orators fine, with speeches set,
 Put all the signoras giggling.
 Culprit here, with heart of coal,
 From Mister Gudgeon stole his soul,
 Hymen's couch, where cheek-by-jowl,
 A fry of cherubs blest their nursery.
 To this Tarquin she did harken,

Serpent, Eden, poison, flattery,
Jury, fury, bother, pother,
Pillory, fine, assault and battery."

Old father Antic, — the law : —

"Old father Antic, — the law, —
With his wig full of wisdom and awe,
He'll coax and amuse ye,
Confound and confuse ye,
Till fast you get fixed in its claw :
Then lofty or low be,
He'll tickle your toby,
Will old father Antic, — the law.

Old father Antic, — the law, —
Will chatter like any jack-daw,
With justice in waiting,
With parchment and prating,
Descant on each quibble and flaw :
So quick in his notions,
So slow in his motions,
Is old father Antic, — the law.

Old father Antic, — the law, —
If once he can catch Johnny Raw,
In fighting his battles,
His goods and his chattels,
He'll swallow all into his maw ;
For sin is his mother,
And Beelzebub's brother
Is old father Antic, — the law."

"I'm thankful I'm not a lawyer : " —

"A lawyer is thought to be clever,
And which I don't mean to deny ;

From interest he never will sever ;
 Give him fees, and he'll never grow shy :
 Rich clients, involved in the law,
 Are things which a lawyer desires ;
 And to lay on them softly his paw,
 Then his costs, he genteelly requires."

[*Spoken.*] "Here, sir, is my bill of costs, which I conceive, under the circumstances of this case, you will not think immoderate." — "Oh, no ! not in the least : here's a draft for the amount." — "Thank you, sir ; I am extremely obliged to you : and I trust upon a similar, or any other occasion, when I may have the pleasure of seeing your face again, the like assiduity, attention, and application will not be wanting on my part."

"With his latitat and capias,
 Bills and fieri-facias,
 Parchment rolls and paper slips,
 Honey tongue, but lying lips,
 I'm thankful I am not a lawyer.

His coat then denotes his profession,
 For in black things a lawyer delights :
 He's afraid it won't last till next session,
 When money will put it to rights.
 Oh ! how much will his clients now grieve
 Since the lawyer is going to rack ;
 And unless they give him a reprieve,
 He will not have a coat to his back."

[*Spoken.*] "Charity, charity, gentlemen, is the noblest passion of man ; pray endeavor to get into law, and let me endeavor to get you out of it ; for believe me, gentlemen, it is an indisputable, incontrovertible, and undeniable

fact, as times now go, that a lawyer can scarcely get an honest piece of bread, or corks sufficient to keep his head above water."

"With his dedimus and alias,
Chancery suits and habeas,
Old settlements and abstracts,
Briefs and other rotten tracts,
I'm thankful I am not a lawyer."

The Lawyer's Clerk — air, "Poor Jack : " —

"Go, lawyers and scriveners and clerks, d'ye see,
'Bout parchment, pens, stamps, and the like :
A snug little desk, and a good office, give me,
And 'taint to a little I'll strike ;
Though the deed should be long, sir, and I pressed for
time,
And intricate and hard to draw,
Clear the desk, stow the books, and set all in a line,
And I'll do it in due form of law.
Avast, then ! don't think me a milksop so soft,
To be taken with trifles aback ;
For in Westminster Hall the judge sits up aloft,
The guard and protector of Jack.

I heard my good master palaver one day,
'Bout writs, bonds, and deeds, and the like :
So many fine things to me he did say,
He made law as plain as a pike ;
For says he, how our client can founder, d'ye see,
Without orders that come down below ;
And many fine things that proved clearly to me,
The chief justice would take us in tow ;
For says he, d'ye mind me, though you should e'er so oft
Delay pleadings, and set them aback,

That same noble judge that sits perched up aloft,
Will be guard and protector of Jack.

I says to a client (for d'ye see, he would swear),
When he lost his last cause all through me,
I give you my word the proceedings were fair,
And to doubt it a fool you must be;
For d'ye see, the law's just: and a verdict for all
Can't be had; one must win, and no more.
And if, my dear sir, you should be in the wrong,
Your antagonist then gets before.
Come, then, all's a hazard: now don't be so soft.
Next cause you'll recover it back;
For d'ye see, those twelve men that sit perched up aloft,
They'll then give a verdict for Jack.

D'ye mind me, a lawyer should be every inch
All in one, as the skins of a deed,
And well brave the court, too, without offring to flinch,
If ever he'd wish to succeed.
As to me in all causes, all briefs, pleas, and suits,
Nought's a trouble if money it brings,
My advice I will give to reap the first fruit,
Charge high; and the blame is the king's.
If cause comes to trial, don't think me so soft,
To be taken with conscience aback;
For that same noble judge that sits perched up aloft,
Will be guard and protector of Jack."

From "An Hundred Years Hence: " —

"You chancery lawyers,
Whose subtlety thrives
In spinning out suits
To the length of three lives, —
Such suits which the clients
Do wear out in slavery,

Whilst pleader makes conscience
A cloak for his knavery, —
May boast of his subtlety
In the present tense;
But *non est inventus*
An hundred years hence.”

Consequences of Sunday travelling, — founded on
fact : —

“ Three eminent men of the law
Lately travelled on Sunday together,
Through roads that were cover'd with snow,
Not regarding the day nor the weather :
At length they got into a pit,
(How dismal the tale to be told !)
Where they and their horses, *to wit*,
Had liked to have perish'd with cold.
Tho' they often before, none can doubt,
Had waded thro' thick and thro' thin,
Yet the more now they tried to get out,
The deeper, alas they sunk in.
O Fortune ! now lend 'em thine aid,
Or how canst thou answer thy charge ?
Thou hast Coke upon Littleton laid,
And pull'd down the statutes at large.
The goddess was mov'd with their cries,
And determin'd to save all their lives :
Then quick to their succor she flies,
To the joy of their clients and wives.
Ye lawyers, remember their doom,
And be warn'd at the fall of these men :
I hope you will never presume
To travel on Sunday again.”

"A CROSS-EXAMINATION IN CHIEF.

Barrister. Call John Tomkins.

Witness. Here (is sworn) !

Bar. Look this way — what's your name?

Wit. John Tomkins.

Bar. John Tomkins, eh ! And pray, John Tomkins, what do you know about this affair?

Wit. As I was going along Cheapside —

Bar. Stop, stop ! not quite so fast, John Tomkins. When was you going along Cheapside?

Wit. On Monday, the 26th of June.

Bar. Oh, oh ! Monday, the 26th of June ; and pray, how came you to know that it was Monday, the 26th of June?

Wit. I remember it very well.

Bar. You have a good memory, John Tomkins : here is the middle of November, and you pretend to remember your walking along Cheapside in the end of June?

Wit. Yes, sir : I remember it as if it was but yesterday.

Bar. And pray, now, what makes you remember it so very well?

Wit. I was then going to fetch a midwife.

Bar. Stop there, if you please. (Gentlemen of the jury, please to attend to this.) So, John Tomkins, you, a hale, hearty man, were going to fetch a midwife? Now, answer me directly, — look this way, sir ; what could you possibly want with a midwife?

Wit. I wanted to fetch her to a neighbor's wife who was ill abed.

Bar. A neighbor's wife ! What, then, you have no wife of your own?

Wit. No, sir.

Bar. Recollect yourself: you say you have no wife of your own?

Wit. No, sir: I never had a wife.

Bar. None of your quibbles, friend: I did not ask you if you ever had a wife. I ask you if you have now a wife, and you say no.

Wit. Yes, sir; and I say truth.

Bar. Yes, sir! and no, sir! and you say truth! We shall soon find that out. And was there nobody to fetch a midwife but you?

Wit. No: my neighbor lay ill himself.

Bar. What! did he want a midwife too? (*A loud laugh.*)

Wit. He lay ill of a fever, and so I went to serve him.

Bar. No doubt, you are a very serviceable fellow, in your way. But pray, now, after you had fetched the midwife, where did you go?

Wit. I went to call upon a friend.

Bar. Hold: what time in the day was this?

Wit. About seven o'clock in the evening.

Bar. It was quite daylight, was it not?

Wit. Yes, sir: it was a fine summer evening.

Bar. What! is it always daylight in a summer evening?

Wit. I believe so (*smiling*).

Bar. No laughing, sir, if you please: this is too serious a matter for levity. What did you do when you went to call upon a friend?

Wit. He asked me to take a walk; and when we were walking, we heard a great noise —

Bar. And where was this?

Wit. In the street.

Bar. Pray attend, sir: I don't ask you whether it was in the street, I ask you what street?

Wit. I don't know the name of the street, but it turns down from —

Bar. Now, sir, upon your oath, do you say you don't know the name of the street?

Wit. No, I don't.

Bar. Did you ever hear it?

Wit. I may have heard it, but I can't say I remember it.

Bar. Do you always forget what you have heard?

Wit. I don't know that I ever heard it; but I may have heard it, and forgot it.

Bar. Well, sir, perhaps we may fall upon a way to make you remember it.

Wit. I don't know, sir: I would tell it if I knew it.

Bar. Oh, to be sure you would! you are remarkably communicative. Well, you heard a noise; and I suppose you went to see it too.

Wit. Yes: we went to the house where it came from.

Bar. So, it came from a house! and, pray, what kind of a house?

Wit. The Cock and Bottle, — a public house.

Bar. The Cock and Bottle! why, I never heard of such a house. Pray, what has a cock to do with a bottle?

Wit. I can't tell: that is the sign.

Bar. Well, and what passed there?

Wit. We went in to see what was the matter, and the prisoner there —

Bar. Where?

Wit. Him at the bar there : I know him very well.

Bar. You know him? How came you to know him?

Wit. We worked journey work together once, and I remember him very well.

Bar. So, your memory returns : you can't tell the name of the street, but you know the name of the public house, and you know the prisoner at the bar. You are a very pretty fellow ! And, pray, what was the prisoner doing?

Wit. When I saw him he was —

Bar. When you saw him ! Did I ask you what he was doing when you did not see him?

Wit. I understand he had been fighting.

Bar. Give us none of your understanding : tell what you saw.

Wit. He was drinking some Hollands and water.

Bar. Are you sure it was Hollands and water?

Wit. Yes : he asked me to drink with him, and I just put it to my lips.

Bar. No doubt you did, and I dare say did not take it soon from them. But now, sir, recollect you are upon oath ; look at the jury, sir ; upon your oath, will you aver that it was Hollands and water?

Wit. Yes, it was.

Bar. What ! was it not plain gin?

Wit. No : the landlord said it was Hollands.

Bar. Oh ! now we shall come to the point — the landlord said? Do you believe every thing the landlord of the Cock and Bottle says?

Wit. I don't know him enough.

Bar. Pray, what religion are you of ?

Wit. I am a Protestant.

Bar. Do you believe in a future state ?

Wit. Yes.

Bar. Then what passed after you drank the Hollands and water ?

Wit. I heard there had been a fight, and a man killed : and I said, ' O Robert ! I hope you have not done this ; ' and he shook his head.

Bar. Shook his head ; and what did you understand by that ?

Wit. Sir ?

Bar. I say, what did you understand by his shaking his head ?

Wit. I can't tell.

Bar. Can't tell ! can't you tell what a man means when he shakes his head ?

Wit. He said nothing.

Bar. Said nothing ! I don't ask you what he said : what did you say ?

Wit. What did I say ?

Bar. Don't repeat my words, fellow, but come to the point at once. Did you see the dead man ?

Wit. Yes : he lay in the next room.

Bar. And how came he to be dead ?

Wit. There had been a fight, as I said before.

Bar. I don't want you to repeat what you said before.

Wit. There had been a fight between him and the —

Bar. Speak up ! his lordship don't hear you : can't you raise your voice ?

Wit. There had been a fight between him and the prisoner —

Bar. Stop there : pray, when did this fight begin?

Wit. I can't tell exactly ; it might be an hour before : the man was quite dead.

Bar. And so he might, if the fight had been a month before : that was not what I asked you. Did you see the fight?

Wit. No : it was over before we came in.

Bar. We ! what we ?

Wit. I and my friend.

Bar. Well, and it was over ; and you saw nothing?

Wit. No.

Bar. Gem'men of the jury, you will please to attend to this : he positively swears he saw nothing of the fight. Pray, sir, how was it that you saw nothing of the fight?

Wit. Because it was over before I entered the house, as I said before.

Bar. No repetitions, friend. Was there any fighting after you entered?

Wit. No : all was quiet.

Bar. Quiet ! you just now said you heard a noise, you and your precious friend.

Wit. Yes : we heard a noise —

Bar. Speak up, can't you ? and don't hesitate so.

Wit. The noise was from the people crying and lamenting.

Bar. Don't look to me, look to the jury. Well, crying and lamenting.

Wit. Crying and lamenting that it happened, and all blaming the dead man.

Bar. Blaming the dead man ! why, I should have thought him the most quiet of the whole (*another laugh*). But what did they blame him for ?

Wit. Because he struck the prisoner several times without any cause.

Bar. Did you see him strike the prisoner ?

Wit. No ; but I was told that —

Bar. We don't ask you what you was told : what did you see ?

Wit. I saw no more than I have told you.

Bar. Then why do you come here to tell us what you heard ?

Wit. I only wanted to give the reason why the company blamed the deceased.

Bar. Oh, we have nothing to do with your reasons, or theirs either !

Wit. No, sir : I don't say you have.

Bar. Now, sir, — remember you are upon oath, — you set out with fetching a midwife : I presume you now went for an undertaker.

Wit. No, I did not.

Bar. No ! that is surprising, — such a friendly man as you. I wonder the prisoner did not employ you.

Wit. No : I went away soon after.

Bar. And what induced you to go away ?

Wit. It became late, and I could do no good.

Bar. I dare say you could not ; and so you come here to do good, don't you ?

Wit. I hope I have done no harm. I have spoken like an honest man : I don't know any thing more of the matter.

Bar. Nay, I sha'n't trouble you further (*witness*

retires, but is called again). Pray, sir, what did the prisoner drink his Hollands and water out of ?

Wit. A pint tumbler.

Bar. A pint tumbler ! what ? a rummer ?

Wit. I don't know : it was a glass that holds a pint.

Bar. Are you sure it holds a pint ?

Wit. I believe so.

Bar. Ay, when it is full, I suppose ! You may go your ways, John Tomkins. A pretty hopeful fellow that. (*Aside.*)”

The following from “Punch” are too good not to be rendered more accessible than the newspaper columns : —

“MONODY*ON THE DEATH OF AN ONLY CLIENT.

“Oh ! take away my wig and gown,
Their sight is mockery now to me :
I pace my chambers up and down,
Reiterating, ‘Where is *he* ?’

Alas ! wild echo, with a moan,
Murmurs above my feeble head :
In the wide world I am alone ;
Ha, ha ! my only client's dead !

In vain the robing-room I seek :
The very waiters scarcely bow ;
Their looks contemptuously speak,
‘He's lost his only client now.’

E'en the mild usher, who of yore
Would hasten when his name I said,
To hand in motions, comes no more :
He knows my only client's dead.

Ne'er shall I, rising up in court,
 Open the pleadings of a suit :
 Ne'er shall the judges cut me short,
 While moving them for a compute.

No more with a consenting brief
 Shall I politely bow my head :
 Where shall I run to hide my grief ?
 Alas ! my only client's dead.

Imagination's magic power
 Brings back as clear as clear can be,
 The spot, the day, the very hour,
 When first I signed my maiden plea.

In the Exchequer's hindmost row
 I sat, and some one touched my head ;
 He tendered ten-and-six : but oh !
 That only client now is dead.

In vain I try to sing, — I'm hoarse.
 In vain I try to play the flute.
 A phantom seems to flit across, —
 It is the ghost of a compute.

I try to read, but all in vain ;
 My chamber listlessly I tread ;
 Be still, my heart ; throb less, my brain ;
 Ho, ho ! my only client's dead.

I think I hear a double knock ;
 I did — alas ! it is a dun.
 Tailor, avaunt ! my sense you shock :
 He's dead ! you know I had but one.

What's this they thrust into my hand ?
 A bill returned ! — ten pounds for bread !
 My butcher's got a large demand :
 I'm mad ! my only client's dead."

"LINES TO BESSY BY A STUDENT AT LAW.

"My heart is like a title-deed,
Or abstract of the same;
Wherein, my Bessy, thou may'st read
Thine own long-cherished name.

Against thee I my suit have brought;
I am thy plaintiff lover:
And for the heart that thou hast caught,
An action lies, — of trover.

Alas! upon me every day
The heaviest costs you levy:
Oh, give me back my heart — but nay!
I feel I can't replevy.

I'll love thee with my latest breath:
Alas! I cannot *you* shun,
Till the hard hand of sheriff death
Takes me in execution.

Say, Bessy dearest, if you will
Accept me as a lover?
Must true affection file a bill
The secret to discover?

Is it my income's small amount
That leads to hesitation?
Refer the question of account
To Cupid's arbitration."

In 1851, at the time of the World's Exhibition in London, Samuel Warren wrote a very peculiar and extraordinary poem, styled "The Lily and the Bee," called

out by the exhibition ; of which "Punch" published a burlesque, entitled "The Dilly and the D's." The "Dilly" was the Oxford coach. The poem describes the upsetting of this coach, and finally the safe arrival of Mr. Warren at Oxford, where, in company with Derby and Disraeli, he has the degree of LL.D. conferred on him. I extract some passages applicable to our subject :—

"O Spirit! Spirit of Literature,
 Alien to Law!
 O Muse, ungracious to thy sterner sister, THEMIS,
 Whither away? Away!
 Far from my brief—
 Brief with a fee upon it,
 Tremendous!
 And probably—before my business is concluded—
 A REFRESHER; nay, several!!
 Whither whirlest thou thy thrall?
 Thy willing thrall?
 '*Now and then;*'
 But not just at this moment,
 If you please, Spirit!
 No, let me read and ponder on
 THE PLEADINGS.
 Declaration!
 Plea!!
 Replication!!!
 Rejoinder!!!!
 Surrejoinder!!!!!
 Rebutter!!!!!
 Surrebutter!!!!!!
 ETC! ETC!! ETC!!!
 It may not be. The muse,
 As ladies often are,

Though lovely, is obstinate,
And will have her own way.

I obey, Spirit.

Hang my brief, 'tis gone!

To-morrow let my junior cram me in court.

Behold! and thank thy stars

That led thee — Worm —

Thee, that art merely a writer

And a barrister,

Although a man of elegant acquirements,

A gentleman and a scholar —

Nay, F.R.S., to boot —

Into such high society,

Among such SWELLS,

And REAL NOBS!

Behold! ten live LORDS! and lo! no end

Of ex-Cabinet Ministers!

Oh! happy, happy, happy,

Oh, happy Sam!

Say, isn't this worth, at the least,

'Ten thousand a year'?

And these are all, to-day at least,

Thy fellows!

Going to be made

LL.D.'s, even as thyself:

And thou shalt walk in silk attire,

And hob and nob with all the mighty of the earth."

Southey, in a letter to his three young daughters, gives an amusing account of his being double-ell-deed at Oxford. "When the theatre is full, the vice-chancellor and the heads of houses and the doctors enter. Those persons who are to be ell-ell-deed remain without in the

divinity schools, in their robes, till the convocation have signified their assent to the ell-ell-deeing : and then they are led into the theatre one after another, in a line, into the middle of the area ; the people first making a lane for them. The professor of civil law, Dr. Phillimore, went before, and made a long speech in Latin, telling the vice-chancellor and the dignissimi doctores what excellent persons we were who were now to be ell-ell-deed. Then he took us one by one by the hand, and presented each in his turn, pronouncing his name aloud, saying who and what he was, and calling him many laudatory names, ending in *issimus*. The audience then cheered loudly, to show their approbation of the person ; the vice-chancellor stood up, and, repeating the first words in *issime*, ell-ell-deed him ; the beadles lifted up the bar of separation, and the new-made doctor went up the steps, and took his seat among the dignissimi doctores."

THACKERAY,

under the title of "Jacob Omnium's Hoss," makes "Pleaceman X" thus discourse of the Palace Court : —

"One sees in Viteall Yard,
 Vere pleacemen do resort,
 A wenerable hinstitute.
 'Tis called the Pallis Court.
 A gent as got is i on it,
 I think will make some sport.

The natur of this court
 My hindignation riles ;
 A few fat legal spiders
 Here set and spin their viles ;

To rob the town theyr privilege is,
In a hayrea of twelve miles.

The judge of this year court
Is a mellitary beak :
He knows no more of Lor,
Than praps he does of Greek,
And provids hissself a deputy
Because he cannot speak.

Four counsel in this Court —
Misnamed of Justice — sits ;
These lawyers owes their places to
Their money, not their wits ;
And there six attornies under them,
As here their living gits.

These lawyers, six and four,
Was a livin at their ease,
A sendin of their writs abowt,
And droring in the fees,
When there erose a cirkimstance
As is like to make a breeze."

Then follows an account of how a gentleman's horse was stolen and recovered, and how the livery-man, with whom the horse had been lodged by the thief, "sum-mingsd" the owner into the "Pallis Court" to pay for said keeping : the result is thus narrated : —

"Pore Jacob went to court,
A counsel for to fix,
And choose a barrister out of the four,
An attorney of the six ;
And there he sor these men of Lor,
And watched 'em at their tricks.

The dreadful day of trile
 In the Pallis Court did come :
 The lawyers said their say,
 The judge looked wery glum ;
 And then the British jury cast
 Pore Jacob Hom-ni-um.

O a weary day was that
 For Jacob to go through :
 The debt was two seventeen
 (Which he no mor owed than you) ;
 And then there was the plaintives costs,
 Eleven pound six and two.

And then there was his own,
 Which the lawyers they did fix
 At the wery moderate figgar
 Of ten pound one and six.
 Now Evins bless the Pallis Court,
 And all its bold verdicks !

I cannot settingly tell
 If Jacob swaw and cust,
 At aving for to pay this sumb ;
 But I should think he must,
 And av drawn a cheque for £24 4s. 8d.,
 With most igstreme disgust.

O Pallis Court, you move
 My pitty most profound !
 A most amusing sport
 You thought it, I'll be bound,
 To saddle hup a three pound debt,
 With two and twenty pound.

Good sport it is to you
 To grind the honest pore ;

To pay their just or unjust debts,
 With eight hundred per cent for Lor;
 Make haste and git your costs in,
 They will not last much more!

Come down from that tribewn,
 Thou Shameless and Unjust;
 Thou Swindle, picking pockets in
 The name of Truth august;
 Come down, thou hoary Blasphemy,
 For die thou shalt and must.

And go it, Jacob Homnium,
 And ply your iron pen;
 And rise up, Sir John Jervis,
 And shut me up that den,—
 That sty for fattening lawyers in,
 On the bones of honest men."

BARHAM,

in "Look at the Clock," has a few stanzas applicable to our subject. The story is of a Welshman who killed his scolding wife:—

"The fatal catastrophe
 Named in my last strophe
 As adding to grim Death's exploits such a vast trophy,
 Made a great noise; and the shocking fatality
 Ran over, like wild fire, the whole principality.
 And then came Mr. Ap Thomas, the Coroner,
 With his jury to sit, some dozen or more, on her.
 Mr. Pryce to commence
 His 'ingenious defense,'
 Made a 'powerful appeal' to the jury's 'good sense.'
 The world he must defy
 Ever to justify

Any presumption of 'Malice Prepense;' —
 The unlucky lick
 From the end of his stick
 He 'deplored' — he was 'apt to be rather too quick;' —
 But really her prating
 Was so aggravating,
 Some trifling correction was just what he meant; all
 The rest, he assured them, was 'quite accidental.'
 Then he calls Mr. Jones,
 Who depones to her tones,
 And her gestures and hints about 'breaking his bones.'
 While Mr. Ap Morgan and Mr. Ap Rhy
 Declared the deceased
 Had styled him 'a Beast,'
 And swear they had witnessed, with grief and surprise,
 The allusion she made to his limbs and his eyes.

The jury, in fine, having sat on the body
 The whole day, discussing the case and gin-toddy,
 Returned about half-past eleven at night,
 The following verdict: 'We find, *sarve her right!*'"

"GIOVANNI IN LONDON"

has a scene with the following —

TRIO.

First Lawyer, Second Lawyer, Giovanni.

Air — "Soldier, give me one pound."

"First Lawyer. Giovanni, give me one pound.

Second Lawyer. Giovanni, give me two.

First Lawyer. Trial, it comes on to-day;

Second Lawyer. And nothing can we do.

First Lawyer. You must give a fee

Both to me —

Second Lawyer.

And me.

Both Lawyers. For oh! the law's a mill
 That without grist will never go.
Giovanni. Lawyer, there is one pound; (*to first lawyer*)
 Lawyer, there are two; (*to second lawyer*)
 And now I am without a pound,
 Thanks to the law and you.
 For oh! I feel the law
 Has clapped on me its paw;
 And oh! the law's a mill
 That without grist will never go."

WESTMINSTER HALL.

The following lines are inscribed on an ancient print
 of Westminster Hall: —

"When fools fall out, for ev'ry flaw,
 They run horn-mad to go to law:
 A hedge awry, a wrong plac'd gate,
 Will serve to spend a whole estate.
 Your case the lawyer says is good,
 And justice cannot be withstood:
 By tedious process from above,
 From office they to office move;
 Thro' pleas, demurrers, the devil, and all,
 At length they bring it to the *hall*, —
 The dreadful hall by Rufus rais'd,
 For lofty Gothic arches prais'd.
 The first of Term, the fatal day,
 Doth various images convey;
 First, from the courts with clam'rous bawl,
 The criers their attorneys call:
 One of the gown, discreet and wise,
 By *proper* means his witness tries;
 From Wreathock's gang not right or laws,
 H' assures his trembling client's cause:

This gnaws his handkerchief, while that
 Gives the kind ogling nymph his hat;
 Here one in love with choiristers
 Minds singing more than law affairs.
 A sergeant limping on behind,
 Shows justice lame as well as blind.
 To gain new clients some dispute,
 Others protract an ancient suit.
 Jargon and noise alone prevail,
 While sense and reason's sure to fail.
 At Babel thus law terms began,
 And now at Westm——er go on."

The occupations of First Term Day are further described in the following, by John Baynes, a lawyer, who lived in the latter half of the last century: the names all represent real persons: —

OF JUSTIFYING BAIL.

"Baldwin. Hewett, call Taylor's bail — for I
 Shall now proceed to justify.
Hewett. Where's Taylor's bail?
1st Bail. I can't get in.
Hewett. Make way.
Lord Mansfield. For Heaven's sake, begin.
Hewett. But where's the other?
2d Bail. Here I stand.
Mingay. I must except to both. Command
 Silence — and if your lordship crave it,
 Austen shall read our affidavit.
Austen. Will Priddle, late of Fleet Street, gent,
 Makes oath and saith, that late he went
 To Duke's place, as he was directed,
 By notice, and he there expected

To find both bail — but none could tell
Where the first bail lived —

Mingay.

Very well.

Austen.

And this deponent further says
That asking who the second was,
He found he'd bankrupt been, and yet
Had ne'er obtained certificate.
When to his house deponent went,
He full four stories high was sent,
And found a lodging almost bare;
No furniture but half a chair,
A table, bedstead, broken fiddle,
And a bureau.

(Signed) *William Priddle.*

Sworn at my chambers.

Francis Buller.

Mingay.

No affidavit can be fuller.
Well, friend, you've heard this affidavit:
What do you say?

2d Bail.

Sir, by your leave, it

Is all a lie.

Mingay.

Sir, have a care.
What is your trade?

2d Bail.

A scavenger.

Mingay.

And pray, sir, were you never found
Bankrupt?

2d Bail.

I'm worth a thousand pound.

Mingay.

A thousand pound, friend — boldly said —
In what consisting?

2d Bail.

Stock in trade.

Mingay.

And pray, friend, tell me, do you know
What sum you're bail for?

2d Bail.

Truly, no.

Mingay.

My lords, you hear — no oaths have check'd
him:
I hope your lordships will —

- Willes.* Reject him.
Mingay. Well, friend, now tell me where you dwell?
1st Bail. Sir, I have lived in Clerkenwell
 These ten years.
Mingay. Half a guinea dead. (*Aside.*)
 My lords, if you've the notice read,
 It says Duke's place. So I desire
 A little further time to inquire.
Baldwin. Why, Mr. Mingay, all this vapor?
Willes. Take till to-morrow.
Lord Mansfield. Call the paper."

"POOR ROBIN,"

whoever he may be, has his fling at the lawyers : —

" This day the long vacation o'er,
 And lawyers go to work once more,
 With their materials all provided,
 That they may have the cause decided.
 The plaintiff he brings in his bill ;
 He'll have his cause, cost what it will :
 Till afterward comes the defendant,
 And is resolved to make an end on't ;
 And having got all things in fitness,
 Supplied with money and with witness ;
 And makes a noble, bold defense,
 Backed with material evidence.
 The proverb is, one cause is good
 Until the other's understood.
 They thunder out to little purpose,
 With certiorari, habeas corpus,
 Their replicandos, writs of error,
 To fill the people's hearts with terror.
 And if the lawyers do approve it,
 To chancery they must remove it ;

And then the two that were so warm
Must leave it to another term :
Till they go home and work for more,
To spend as they have done before."

Many legal odes have been written, but none better than this: "To a Sparrow alighting before the Judges' Chambers in Serjeants' Inn, Fleet street. Written in half an hour, while attending a summons: " —

"Art thou solicitor for all thy tribe,
That thus I now behold thee? — one that comes
Down amid bail-above, an under scribe,
To sue for crumbs? —
Away! 'tis vain to ogle round the square, —
I fear thou hast no head —
To think to get thy bread
Where lawyers are!

Say — hast thou pulled some sparrow o'er the coals,
And fitted here a summons to indite?
I only hope no cursed judicial kite
Has struck thee off the rolls!
I scarce should dream thee of the law — and yet
Thine eye is keen and quick enough — and still
Thou bear'st thyself with perk and tiny fret: —
But then how desperately short thy *bill*!
How quickly might'st thou be of that bereft! —
A sixth 'taxed off' — how little would be left!

Art thou on summons come, or order bent?
Tell me, for I am sick at heart to know.
Say — in the sky is there 'distress for rent,'
That thou hast fitted to the courts below?
!f thou *wouldst* haul some sparrow o'er the coals,
And *wouldst* his spirit hamper and perplex —

Go to John Body — he's available —
 Sign, swear, and get a bill of Middlesex.
 Returnable (mind — bailable!)
 On Wednesday after th' morrow of All Souls.

Or dost thou come a sufferer? I see —
 I see thee 'cast thy *bail*-ful eyes around.'
 Oh! call James White, and he will set thee free.
 He and John Baines will speedily be bound
 In double the sum
 That thou wilt come,
 And meet the plaintiff Bird on legal ground.
 But stand — oh, stand aside! — for look,
 Judge Best, on no fantastic toe,
 Through dingy arch — by dirty nook —
 Across the yard into his room doth go; —
 And wisely there doth read
 Summons for time to plead,
 And frame
 Order for same.

Thou twittering, legal, foolish, feather'd thing,
 A tiny boy, with salt for latitat,
 Is sneaking, bailiff-like, to touch thy wing; —
 Canst thou not see the trick he would be at?
 Away, away! and let him not prevail.
 I do rejoice thou'rt off, and yet I groan
 To read in that boy's silly fate my own:
 I am at fault,
 For from my *attic* though I brought my *salt*,
 I've failed to put a little on thy *tale*!"

The next two are from Cruikshank's Comic Almanacs : —

"A LAW REPORT.

"*Doe on the demise of Roe, versus Roe on the demise of Doe.*

"This was a case of ejectment. *Gabble* (Q.C.) for plaintiff. — This is a clear case of ouster (*Shower*, 2) ; but if the tenant in possession disputes the title of tenant in tail, he cannot plead *laches* (*Campbell*, 1). In this case the remainder man was regularly let in, but the widow cannot now claim dower (*Blackstone*, 3). Suppose the mortgagee had been anxious to foreclose, then plaintiff must have been guided by the rule in *Shelly's* case (*Adolphus and Ellis*, 6). Here there is nothing of the kind. If defendant takes any thing, it is in the character of tenant in reversion after the possibility of issue extinct (*Shower*, 1).

Thumpus (Sergeant) *contra*. — Doe takes only a chattel interest, or at most, a base fee (*Taunton*, 6). The court must presume that the outstanding term is satisfied (*East*, 6). The rule is not now as Coke laid it down, for Mansfield (C.J.) declined taking it up. This is a case of common ouster. Doe walked in as trustee, and was kicked out in tail. There is no relief for him at common law (*Bracton*). The door was shut upon him by defendant's son, and the parent is not answerable for the act of the boy (*Chitty*). Judgment was now delivered by the court.

Mither (C.J.). — This is an uncommon case. Doe was never regularly in, nor was Roe regularly out. Both took as devisees of the same testator. The case in *Shower* cannot guide us here, though the rule laid down has been recognized. I do not think there is much in the objection to the widow's claim of dower, though I

see I have got it upon my notes. A mortgagee may suffer by *laches*, but then the defendant should have pleaded the *tort*. There is nothing of this on the record, and the verdict must go accordingly.

Puny (J.).—I am of the same opinion. My brother Thumpus has referred us to Bracton. I know the point in Bracton, and have decided it twice the other way. But here I think the rule in Shelly's case comes in, and carries the verdict.

Twaddle (J.).—There are four points in this case: three of them amounted to nothing, and the fourth has been conceded. The *laches* ought to have appeared on the pleadings. There cannot be a use upon a use (*Sanders*); but a trustee may take by the common law, which the statute, Jac. II., c. 14, did not interfere with. The provisions of the act removed much abuse, and the eighty-fourth is a particularly wholesome section. Here these questions do not arise; and as the rule is clear, the verdict must follow it.

Shiver (J.).—I am of the same opinion."

"THE LONG VACATION.

"Poor briefless one! thy furrowed face
 For thy profession shows thy fitness;
 And in its parchment lines we trace,
 Too plainly, 'These indentures witness.'
 Thy gown, thy bag, and all around
 Bespeak thine utter desolation:
 Thy purse would lank and void be found—
 Yes, all proclaims the long vacation.
 Thy voice in court is always mute;
 For known to all thy friends the fact is,

That to thy melancholy flute,
Thou dost confine thy chamber practice.

They think thy clerk must sure enjoy
A sinecure — they much mistake :
They little know the wretched boy
Both cleans thy boots, and cooks thy steak.

Thy friends predicted unto thee
A judgeship: pray excuse my broaching
A theme that must unpleasant be,
Though to the bench thou art approaching.

Be of good cheer ! perhaps at last,
Fate may with some appointment bless thee.
And all thy present trials past,
In 'brief authority' still dress thee."

As no work on law can be considered complete without a

PRECEDENT FOR A BILL OF COSTS,

I offer the following, rendered by a tailor to his lawyer for a suit of clothes, and designed as a set-off against the lawyer's bill : —

	£s	6s.	8d.
Attending you in conference concerning your proposed suit, conferring thereon when you could not finally determine	o	6	8
Attending you again thereon, when found you prepared, and taking measures accordingly	o	3	4
Entering	o	5	o
Instructions and warrant to woollen-draper	o	2	o
Copy thereof to keep	o	6	8
Instructions to foreman	o	6	8
Difficulty arising as to proceedings, attending him in consultation	o	6	8
Paid fees to woollen-draper	4	18	6
Attending him thereon	o	6	8
Perusing his receipt	o	3	4
Attending to file same	o	3	4

Filing	£0	1s.	od.
Attending button-maker, instructing him	0	6	8
Paid his charges	2	19	0
Having received summons to proceed, perusing and considering same	0	6	8
Drawing consent and copy to keep	0	4	4
Postage	0	1	6
Copy order thereon and entering	0	3	0
Appointing consultation as to further proceedings, and attending same.	0	13	4
Foreman having filed a demurrer, preparing argument against same	0	6	8
Attending long argument on demurrer, when same overruled	0	10	0
Perusing foreman's plea	0	6	8
Excepting to same	0	6	8
Entering exceptions	0	3	4
Perusing notice of motion to remove suit, and preparing valid objections to lay before you	0	10	0
Same being overruled, consent thereto on an undertaking	0	6	8
Expenses on removal of suit, paid by you at the time	0	0	0
Writing you my extreme dissatisfaction at finding the suit removed into the King's Bench, and that I should move the court, when you promised to obtain a rule as soon as term commenced, and attend me thereon	0	10	6
Conferring with you, in presence of your attendant, at my house, on the first day of term, when you succeeded in satisfying me that you were a <i>Gent. one</i> , etc., and an honorable man, and expressed great dissatisfaction at the proceedings had with the suit while out of my hands; receiving your instructions to demand of your <i>uncle</i> that same should return to me, on my paying a <i>lien</i> he claimed thereon, and received from you his debenture for that purpose	0	13	4
Perusing same, and attending him in St. George's Fields therewith and thereon	0	10	0
Paid him, principal and interest	2	10	4
In consideration of circumstances, no charge for receiving suit back	0	0	0
Perusing letter unexpectedly received from you, dated from your own house, respecting short notice of trial	0	6	8
Attending you thereon	0	6	8
Attending at Westminster several mornings to try the suit, when at last got same on	2	2	0

	£	s.	d.
Paid fees	60	12s.	0d
Fee to porter	0	5	0
It being determined that the suit should be put into a special case, drawing special instructions to box-maker for same .	0	13	4
Attending him therewith and thereon	0	6	8
Paid him his fee for special case	2	2	0
Paid his clerk's fee	0	2	6
Considering case as settled	0	6	8
Attending foreman for his consent to same, when he promised to determine shortly	0	6	8
Attending him again thereon to obviate his objections, and obtained his consent with difficulty	0	6	8
Drawing bill of costs	0	15	0
Fair copy for Mr. ——— to peruse and settle	0	7	6
Attending him therewith	0	6	8
Fee to him settling	0	5	0
Attending him for same	0	6	8
Perusing and considering the same as settled	0	6	8
Attending Mr. ——— again, suggesting amendments . . .	0	6	8
Fees to him on amending	0	5	0
Perusing same as amended	0	6	8
Fair copy, with amendments, to keep	0	7	6
Entering	0	5	0
Fair copy for service	0	7	6
Thirty-eight various attendances to serve same	6	6	8
Service thereof	0	6	8
Drawing memorandum of service	0	5	0
Attending to enter same	0	3	4
Entering same	0	2	6
Attending you concerning same	0	6	8
Accepted service of order to attend at the theatre, and gave consent	0	6	8
Retaining-fee at box-office	0	1	0
Service of order on box-keeper	0	6	8
Self and wife, with six children, two of her cousins, her brother and his son, two of my brothers, my sister-in-law, three nephews, four nieces, each attending for four hours and a half to see the "Road to Ruin" and the "Beggars' Opera," eighty-five hours and a half, at 3s. 4d. per hour —very moderate	17	0	10
Coach-hire there and back	0	18	0
Attending you to acquaint you with particulars in general, and concerning settlement particularly	0	6	8
Instructions for receipt	0	3	4

Drawing receipt	£0	5s.	0d.
Vacation-fee	1	1	0
Refreshing-fee	0	13	4
Perusing receipt and amending same	0	6	8
Fair copy to keep	0	2	6
Engrossing on stamp	0	2	6
Paid duty and paper	0	3	1
Fee on ending	2	2	0
Letters and messengers	0	10	0
	£63	0s.	9d.
To numerous, various, and a great variety of divers and very many letters, messages, and attendances to, from, on, and upon, you and your agents and others, pending a negotiation for settlement, far too numerous to be mentioned; and an infinite deal of trouble, too troublesome to trouble you with, or to be expressed, without more and further trouble, but which you must, or can, or shall, or may know or be informed of, what you please			
	£	s.	d.

The ruthless reformers of these evil days have done away with any necessity for the foregoing as a precedent, but it may serve to remind the profession of that paradise of compensation from which theoretically they have been ejected. The lawyers used to be paid in proportion to the number of words they employed. So naturally they never were distinguished for conciseness. As the hackman carries the stranger roundabout so as to make a large demand, so the ancient lawyer beat about the bush with his verbal tediousness. Nowadays he goes straighter to his destination, but the fare seems about as high as ever.

DEATH OF SAMPSON BRASS.

I take it for granted that every lawyer is acquainted with Mr. Sampson Brass, the attorney of Dickens's "Old

Curiosity Shop." Our concluding burlesque will relate to him. It is somewhat notorious that there is one occasion on which all the lawyers speak well of any other particular member of the profession ; and that is, when he is dead, and his survivors hold a "bar-meeting" over him. According to such meetings, no bad lawyer has ever died ; and this may account for the lowered tone of the profession, which the good editors of newspapers are so unanimously lamenting in these days. Mr. John C. Greene of Troy, N.Y., some years ago discovered, and transmitted to "The Albany Law Journal" for publication, an account of the proceedings of the bar on the death of Mr. Brass ; and by his permission, I reproduce it here : —

"POSTHUMOUS JUSTICE.

"The bales of old paper and rags gathered from the ends of the earth, to be 'worked up' by Yankee mills, are full of curiosities. The chiffonier's hook penetrates, sooner or later, the most secret places, and brings up to the light many strange matters, — bundles of letters tied with faded ribbon ; huge rolls of manuscript, 'rejected' (when their rejection meant starvation perhaps), and gathered from publishers' waste-baskets ; quaint and curious volumes of forgotten lore ; account-books of defunct firms ; pamphlets and tracts without number. Do you ever think, brother, upon what a weird palimpsest you are drawing your little innocent bill of costs, or your cold-blooded affidavit? No, not you.

"Not long since, while visiting the extensive works of my friends Pulp & Co. of Pulpville, the distinguished paper-manufacturers, in a huge pile of material about to be placed in the bleacher, I noticed and picked up a

pamphlet, which, as it contained many familiar names, attracted my attention, and interested me at once. It is entitled 'Proceedings and Resolutions of a meeting of the Attorneys and Solicitors of London, upon the death of Sampson Brass, Esq., late of Bevis Marks,' and contains the speeches and resolutions made upon that melancholy occasion. I regret that the proceedings are too lengthy to be published entire in this journal; but as they are, I have made a synopsis of the more important parts, which I hasten to present to my professional brethren.

"The pamphlet appears to have been prepared by a reporter who was present. It begins with the statement that 'the meeting was largely attended, and was impressive in its solemnity. Among those present were observed the Hon. T. Traddles, one of the barons of the exchequer; Mr. Conversation Kenge and Mr. Carboy of Lincoln's Inn; Mr. Dodson and Mr. Fogg of Freeman's Court; Mr. Perker of Gray's Inn; Mr. Vholes of Furnival's Inn; Mr. Witherden, Mr. Abel Garland, Mr. Jaggery, Mr. Wemick, Mr. Solomon Pell, Mr. Mortimer Lightwood, of the Temple; Mr. Guppy, and many others.

"The meeting was organized by calling to the chair the Hon. Baron Traddles, who said, upon taking his seat, 'Again, gentlemen, pallid death has visited our profession; and we are called upon to pay the last tribute of respect to a departed brother. This occasion is one of more than ordinary interest and solemnity. Our distinguished brother, Mr. Tupton Tulkinghorn, after a long life of assiduous devotion to his profession, has passed to his reward. Mr. Tulkinghorn was a man of no common mould. He brought to the conduct of his business great

natural talents and assiduous cultivation. Untiring in his application, his causes were thoroughly prepared ; and no contingency could arise on their trial which his forethought and research had not provided for. In his devotion to the interests of his clients, he afforded to all of us a bright example of professional fidelity, limited and qualified, as it was, only by his quick moral perception and sterling integrity. As a lawyer, his loss to the profession is irreparable. As a man, the kindness of his nature, his courtesy and affability in his daily intercourse with his professional brethren, his generosity and frankness, his scorn of all that was mean or dishonorable, has fondly endeared him to us ; and it will be long before the profession cease to cherish his memory and revere his virtues.”

“Mr. Guppy and Mr. Garland were then appointed secretaries. Mr. Pell, Mr. Perker, and Mr. Wemick, committee on resolutions.

“Mr. Kenge then spoke as follows : —

“[It is to be regretted that I am compelled to omit portions of the speech of Mr. K., as my space is limited ; and in condensing it, it will lose much of the fervor and earnestness of the original.] He said, ‘That the critical analysis of character was often a difficult task, nearly impossible when it was masked behind the conventionalities, and he was sorry to add the hypocrisies, of life : but in the case of our late friend and brother, the task was easier ; for so open and generous was his nature, that hypocrisy was to him an impossibility ; and in every occurrence of his life the whole man stood revealed.’ Mr. K. spoke feelingly of Mr. Brass in his relations with his professional brethren and his clients, and of his devotion to

the interest of the latter. 'One incident in his life,' Mr. K. continued, 'which, properly understood, reflected credit upon his professional character, had been seized upon by an anonymous Bohemian scribbler, writing under the pseudonyme of "Boz," who never lost an opportunity of attacking our profession, and so distorted as to create for a short time an unfavorable impression of our friend in non-professional circles ; but he thanked Heaven, the deceased never for a moment lost the confidence and esteem of the profession. That,' said Mr. K., 'I believe to be the proudest eulogium that can be passed upon any lawyer.' Mr. K. remarked at length upon the attributes of the deceased as a man and a lawyer, and spoke of the irreparable loss the profession had sustained by his death. 'But,' said Mr. K., 'he has gone, full of years and honors, to take his place in the stately vista of the pillars of our profession.' Mr. K. concluded by an affecting reference to the inroads which death had lately made in the ranks of the profession, regretted our inability to check the march of the ruthless destroyer, counselled resignation to the inscrutable decrees of Providence, and an unfaltering trust in the beneficent intentions of the Creator. He eloquently and feelingly compared the consolations of religion with those which philosophy affords, and concluded with the quotation, —

" ' Philosophy and reason ! Ah, how vain
 Their lessons to the feelings ! They but teach
 To hide them deeper, and to show a calm,
 Unruffled surface to the idle gaze.'

" ' He was followed,' says the report, 'by Mr. Vholes of Furnival's, who spoke as follows : —

“Mr. Chairman, — I have hastened from the funeral solemnities of my aged father, who was recently buried in the beautiful Vale of Taunton, where I have been graciously permitted by Divine Providence to contribute to his support for many years, to be present at this mournful occasion. Mr. Chairman, I consider the custom of meeting to pay our tribute to our deceased brethren as a most beautiful and beneficent one ; and I hope that it may be long before it is abandoned. The careful analysis of character which occasions like this elicit, teaches the lawyer that his whole duty is so to live that he may be respected by the profession, and leave a competency to his family. I can cordially unite in all that has been said of the professional character and capacity of our deceased brother. In his social relations, his genial disposition and conversational powers left nothing to be desired ; but that of which I desire principally to speak, is the eminent purity of his life, and his deep religious experience. Mr. Brass was a Christian gentleman, — nay, more, he was that embodiment of all that is noble in man, the Christian lawyer ! His religious convictions had always been deep and abiding, his faith simple and childlike : but for a short time before his death, he seemed more thoroughly aroused, and determined in the future to devote himself more untiringly to pious ministrations and works of love ; and he spoke with affecting earnestness of the pleasure he anticipated in more intimate association with active Christians. But alas for the uncertainty of earthly hopes ! we now assemble to mourn our loss, which is his eternal gain. Let us, my friends, lay this afflicting dispensation to heart, and, considering the frail tenure of life, apply our hearts to

wisdom ; for in such an hour as we think not, we may be called to meet the realities of another world, and our families be left to the cold charities of this, very inadequately provided for.'

"Mr. Witherden then addressed the meeting. He said that he thought that the profession was generally apt to lay too much stress upon the intellectual attainments of lawyers, and to think too little of the qualities of their hearts : he desired to bear testimony to the qualities of the heart of the deceased, rather than to his eminent professional attainments, which were known to all, and required no eulogy at his hands. Mr. W. then spoke at great length of the private and social virtues of the deceased, and instanced many acts of charity and unselfish devotion. Mr. Witherden spoke feelingly of his own relations with Mr. B., and concluded as follows : 'During nearly forty years of professional life, I was constantly brought in contact with my deceased brother in the relation, both of colleague and adversary ; and never in that long period was our intercourse darkened by a cloud of suspicion, or disturbed by an unkind word or a bitter thought. But thou art gone, my brother, my companion —

"" No lovelier spirit than thine
 Ever burst from its mortal control
 In the realms of the blessed to shine !""

"The reporter says, that, during the remarks of Mr. Witherden, his partner, Mr. Garland, was so overcome by his emotions as to require assistance to leave the hall.

"Mr. Dodson of Freeman's Court, Cornhill, next ad-

dressed the chair as follows : ‘ I feel, Mr. Chairman, that I cannot add any thing to the eloquent and deserved tributes of respect that have been offered to the memory of our lamented brother ; but I desire, as a humble member of the profession which he adorned, and as an old and familiar acquaintance of his, to signify my acquiescence in what has been said of his character. Perhaps it may not be out of place for me to add, that if there was one virtue for which our deceased friend was more remarkable than another, it was the singular purity of his relations toward his clients. He never stooped to speculating in his clients’ causes, — a practice common in these days, and very reprehensible. He was a peace-maker, and always discouraged personal actions, such as breach of promise of marriage, and slander. He was a liberal and kindly man. I recollect an instance illustrative of these traits, to which my partner, Mr. Fogg, was witness, and which, if he were present, he would confirm. He had commenced an action against a poor man on a debt of two pound ten : the debtor came to settle, and brought with him the amount of the debt, and only three pound five for costs. It was in Mr. Brass’s power to demand a much larger sum for costs, because he had just ordered his clerk to go and file the declaration ; but the debtor’s distress at the suggestion was so evident, that he waived his right, and exacted only the trifling sum mentioned. I never shall forget the amiable and compassionate smile that irradiated his features as he sat at his desk and wrote an acquittance ; and when he handed it to the debtor, saying, “ There, there ; no matter about the stamp,” I was quite overcome with admiration.

“ ‘ Another trait of Mr. Brass’s character was his deli-

cacy and consideration for the feelings of others. A gentleman, against whom a cause of action had once been placed in his hands for enforcement, having called, in response to a letter from Mr. Brass, and the interview having terminated unsatisfactorily, he sent a clerk to serve the writ on him in the street, just outside the door, rather than serve it himself in his own office.

“These are unimportant matters when separately considered ; but it is their aggregate that renders the reputation of Sampson Brass so deserving of emulation, and so firmly fixed in the memory of his brethren, his clients, and those against whom he was employed. “*Monumentum are perennius.*”

“Mr. Guppy followed. He spoke of the ready assistance always furnished by Mr. Brass to young lawyers, and of his great acumen. Mr. G. said, ‘For many years I never noticed taxation of a bill of costs, without first submitting it to my friend ; and I do not recall an instance in which the bill was not raised from fifteen shillings to three pounds by his untiring research.’

“The report then gives the speeches of Messrs. Fogg, Perker, Wemick, and others ; but I have room for the remarks of Mr. Lightwood only. Mr. L. was the last speaker, and said, —

“‘Mr. Chairman, I had not intended to say any thing upon this melancholy and interesting occasion, knowing, as I did, that there would be no lack of those who would desire to pay a tribute to the worth of our departed friend ; and so I came here entirely without preparation. Yet I cannot forbear to trespass a little upon the time of the meeting.

“‘As our lamented brother was my senior by a score

of years, I knew him better as a lawyer than as a man ; and it was not my privilege to meet him in those social relations in which his genial nature and kindly heart endeared him to his intimate acquaintances. It is as an attorney, then, that I shall speak of him. His distinguishing characteristic was the zeal with which he pursued the interests of his clients, and the unflagging industry which he brought to the preparation of his causes. It has been remarked to me by Lord Chief Justice Wrayburn, that when he was at the bar, he was never so well briefed as when he was retained by Mr. Brass. Said his lordship, " Nothing was so minute as to be overlooked, and no contingency so improbable as not to be provided for. Every question for the examination of his witnesses was carefully prepared and elaborately written out ; and," added his lordship, with suppressed emotion, " his witnesses were equally well prepared for the questions." In one of my earliest causes, which, from its importance, was much talked of at the time, — I refer to *Riderhood v. The London and Hamburgh Steamship Co.*, — I had the good fortune to be associated with the late Mr. Brass. Of the qualities, as a lawyer, which he displayed in the preparation of that case, I cannot speak too highly. My friend, Lord Wrayburn, who held the brief for the plaintiff, remarked to me, upon the coming in of the verdict, which was for two thousand pounds, " that we were indebted for it chiefly to the zeal and ingenuity of my colleague in searching for witnesses in and about Lime-'us-hole, and in preparing, arranging, and reconciling their evidence ;" and added his lordship feelingly, " in this case the client was worthy of the lawyer." In common with the rest of the profession, I deplore a loss that, I fear, this generation cannot supply.'

"Then follows in the pamphlet the report of the committee on resolutions : their substance is as follows : —

"1. Recognizes in this bereavement the hand of Divine Providence.

"2. Avers that the profession are called to mourn the loss of one who had few equals and no superiors as a lawyer and a man, the quality both of his head and heart.

"3. Tenders sympathy to the wife and children of deceased.

"4. That we attend the funeral in a body.

"5. That the proceedings, etc., be published, and copies transmitted, etc.

"I need not say how this little book delighted me. I had been somewhat prejudiced, I blush to confess, against Mr. B., by some malicious reports that had been circulated concerning him by the Bohemian newspaper writer referred to in one of the speeches given above ; but upon a perusal of this pamphlet, I am convinced that Mr. B. was as good as the rest of us. I was somewhat puzzled by the name of Tulkinghorn appearing in the remarks of the Hon. Baron who presided, and also by the words, 'the wife and children,' in the third resolution, as it is well known Mr. B. never married ; but these errors are very *naïvely* explained in the 'errata' upon the last page of the report, which I give entire, as it contains some hints which it would be well for the profession in this country to act upon, as much labor might be saved.

"ERRATA.

"Since the foregoing pages were printed, we have received from the Hon. Baron Traddles a note, explanatory of the appearance in his remarks of the name of Mr. Tupton Tulkinghorn instead of that of Mr. S. Brass. He says, "The mortifying error in my remarks was occasioned by the carelessness of my clerk in filling out *the printed blank form of chairman's speech*. It seems he was so much impressed with the tragic fate of the late Mr. T., that he inserted his name in the *blank left for the purpose* instead of that of Mr. Brass; and at the meeting I was too much overcome by my emotion to observe it."

"Also, in the third resolution, for "the wife and children" read "the beautiful and accomplished sister." The error occurred from the fact that the committee on resolutions *were not personally acquainted with the deceased*, and neglected to *strike out* the words "the wife and family" from the *printed form*.

"REPORTER."

VII.

CURIOUS IMAGINARY TRIALS.

UNDER this head may be set down Lucian's piece, entitled "*Bis Accusatus* ;" or, "*The Double Indictment.*" In this the causes of "*Drunkenness v. The Academy,*" "*Stoa v. Pleasure,*" "*Virtue v. Luxury,*" "*Rhetoric v. A Syrian,*" and "*Dialogue v. The Same,*" are argued, at the command of Jupiter, before Justice, aided by Mercury as a sort of sheriff, and an Athenian jury. These are causes, which among others, have been accumulating until the king of gods yields to the entreaties of mortals, and despatches his daughter, Justice, much against her will, to earth to dispose of them, with an ultimate appeal to him. Mercury makes proclamation of the court, announcing that the number of the judges will be determined by the importance of the charge in the indictment. "If one or another, having begun his process, shall die before sentence is passed, *Æacus* has orders to send him immediately back." The effect of this proclamation is described by Pan: "Heavens! what a noise is here! What a clamor! How they crowd together! With what precipitancy they are clambering up the hill to the *Areopagus*! How one hangs to the skirts of the other, and every one is resolved to be the first! . . . Speeches at the bar I have had enough to surfeit me, for I hear them

every day on the Areopagus." Justice observes, "The people stand very thick, and make a great noise, humming and buzzing all round the citadel, like so many wasps." She then calls the case of "*Drunkenness v. The Academy*," saying, "Let Drunkenness open the case. Now? What ails you? Go, Mercury, and ask her what is the matter!"

Mercury. "She says she cannot produce the charges herself, because the wine has tied up her tongue. 'I am afraid they will laugh at me,' she said, 'when they hear what a stammering I make: you see that I can scarce stand on my feet.'"

Justice. "Then, let her employ a proper attorney. There are advocates enough at hand, who are ready to split their lungs for three *oboli*,"—about fourpence sterling. But in the absence of any who seemed willing to plead the cause of Drunkenness, says Mercury, "The Academy is always ready to speak on both sides, *pro* and *con*, and professes to make it equally clear that a thing is black, and that it is white. She can, therefore, she says, first plead for me, and afterward for herself." And so she does, and wins her own cause by every vote but one. "*Stoa v. Pleasure*" is next taken up; Epicurus speaking for the defendant, who wins unanimously. The plaintiff appeals to Jupiter. "*Virtue v. Luxury*" is next called; but Justice rules, that as it is identical with the last cause, it must await the decision of Jupiter on the appeal, and directs Mercury not to pay the jury any fees, because there has been no determination. Mercury exclaims, "So, then, these good old chuffs, who have clambered up the hill, are to have their labor for their pains." The Syrian then beats Rhetoric and Dialogue.

In the latter case the judges keep their seats, and receive double fees, on account, I suppose, of the tediousness of the cause. The whole piece is a satire upon the philosophers and rhetoricians of Greece: but it is hard to believe that some of Pan's remarks on them were not intended equally for the lawyers who were so "ready to spilt their lungs" for a trifle; as for instance, the following: "At first, when they converse together, about their trumpery, they are calm and peaceable: but when once they get deeper into dispute, they gradually raise their voices to such a pitch that they can strain them no higher, and scream as if they were singing a war-song; so that from sheer exertion, and striving to outbawl one another, their faces become red as scarlet, their necks swell, and their veins rise like a trumpeter's. By roaring all together at the same time, they lose sight of the argument, confound the hundredth proposition with the thousandth; and after having insulted one another with all kinds of abuse, they separate, wiping with their fingers the sweat off their foreheads; and he that has bawled the loudest, and dealt out the most opprobrious epithets, is generally looked upon as the conqueror. In the mean time the crowd, composed chiefly of people who have nothing to do, stand round, and take delight in hearing the fellows vie with each other in insolence and clamor. . . . Whether the public may receive any benefit from their noise and impudence, or what they themselves can gain by their reasonings and disputations, I do not pretend to know."

The following is the trial of the dog, from Racine's "*Les Plaideurs*:" —

"*Dandin.* Come, who are you down there?

Léandre. These are the advocates.

Dandin (to the Prompter). And you?

Prompter. I come to help their halting memory.

Dandin. I understand. And you?

Léandre. I'm the auditory.

Dandin. Commence then.

Prompter. Gentlemen—

Petit Jean. Oh! take a lower key,

For if you prompt so loud they never can hear me.

My lord—

Dandin. Put on your hat.¹

Petit Jean. O sir—

Dandin. I say, put on your hat.

Petit Jean. O sir!

I think I understand good breeding better'n that.

Dandin. Be covered, I repeat.

Petit Jean (putting on his hat, to Prompter). Well,
Prompter, now be dumb;

That which I know the best is my exordium.

Your honors, when I consider with exactitude

The world's inconstancy, full of vicissitude;

When I behold so many races different,

So many wandering stars, not one star permanent;

When I view Cæsar and his fortune;

When I behold the sun, when I behold the moon;

When I behold the state of the Babylonians,

Transferred from Persia to the Macedonians;

When I behold the Lorraines, at first despotic,

Pass to a monarchy, and then grow democratic;

When I behold Japan—

L'Intimé. When will he stop beholding?

Petit Jean. Oh dear! why will he interrupt me with his
scoliding?

I cannot speak a word.

¹ The French lawyers were privileged to plead covered.

Dandin. Restive attorney,
 Why don't you let him finish up his journey?
 When I'm a-sweat to learn if he'n Japan discover
 A harbor for his capon, and thus his wandering's over,
 You've interrupted him with your discourse absurd:
 Now, advocate, proceed.

Petit Jean. I can't. I've lost the word.

Léandre. Out with it, Little John. Your *début* none de-rides.

But why d'ye keep your arms stuck close against your sides?
 And stand upon your feet like a statue perpendicular?
 Come, brighten up, don't be afraid, we're not particular.

Petit Jean (moving his arms). When — I behold — when
 — I behold —

Léandre. Well, what? you dunce!

Petit Jean. Why, how can one expect to course two
 hares at once?

Prompter. 'Tis said —

Petit Jean. 'Tis said —

Prompter. In the —

Petit Jean. In the —

Prompter. Metamorphosis —

Petit Jean. What say?

Prompter. That the metem —

Petit Jean. That the metem —

Prompter. Sychosis —

Petit Jean. Sychosis —

Prompter. Oh dear! The horse —

Petit Jean. The horse —

Prompter. Again said!

Petit Jean. Again —

Prompter. The dog.

Petit Jean. The dog —

Prompter. O blockhead!

Petit Jean. The blockhead —

Prompter. Plague take this advocate!

Petit Jean. The plague on you be cast!
See t'other fellow, too, with's face like Lenten fast!
Go to the Devil, all!

Dandin. Come, on to business push.

Petit Jean. Oh dear me! what's the use of beating round
the bush?

They teach me to speak words in length a fathom each,
Big sounding words, that would from here to Pontoise reach;
Now, I don't see the sense of all this hurly-burly:
In short, to find a fowl I came this morning early;
'There's naught your dog won't steal, if it but take the shape
on

Of fowl: and now he's gone and gobbled up our capon,—
A capon from the Maine; here's nothing to decide:
The first time that I find him, I'll soundly tan his hide.

Léandre. A very neat conclusion, worthy your setting
out!

Petit Jean. Oh, carp who will! One knows my meaning
without doubt.

Dandin. Produce your witnesses.

Léandre. Well said, if he's got any.
They don't come for the wish: they cost a deal of money.

Petit Jean. We have a plenty, though; and they're be-
yond reproach.

Dandin. Let them present themselves.

Petit Jean. I have them in my pouch.
Behold them! here they are,—the capon's legs and head!
Examine them and judge.

L'Intimé. I object to them.

Dandin. Well said!

But why object?

L'Intimé. They're from the Maine:¹ their trade's to
cozen.

Dandin. True, these Maine witnesses crowd in here by
the dozen.

¹ I infer that the inhabitants of Maine were notorious "croquetiers."

L'Intimé. Your honor —

Dandin. Tell me, sir, shall you be expeditious?

L'Intimé. I cannot answer any thing.

Dandin. Why, that's judicious.

L'Intimé (in a tone ending in a squeal). My lords, all that
can astound the culpable,

All that which mortals hold the most redoubtable,
Against us here assembled, seems to be in league, —

In short, I mean to say, eloquence and intrigue.

The fame of the deceased on one hand stands t' admonish,

On t' other, eloquence doth equally astonish, —

The shining eloquence of master Little John.

Dandin. Say, can't you soften down the shrillness of
your tone?

L'Intimé (in his ordinary voice). Oh, yes! I've many of
them. *(In a pompous tone.)* Whatever diffidence

May justly be aroused by said fame and eloquence,

We rest upon your truth, as Hope leans on the anchor,

And trust your sense of right to mitigate all rancor.

Before the great Dandin innocence is power;

Yes, before the Cato of Normandy, the lower,

That sun of equity whose beams have never languished;

Vict'ry delights the gods; but Cato's for the vanquished.

Dandin. Now truly he pleads well.

L'Intimé. To make no further pause,

I take my cue, and go to the merits of my cause.

Aristotle wisely says, in his Politikon, —

Dandin. Why, advocate, the point is now about a capon,
And not of Aristotle and his politics.

L'Intimé. But the authority of the Peripatetics
Has proved that good and evil —

Dandin. In courts of equity

Your Aristotle hasn't the least authority.

Come, to the point.

L'Intimé. Pausanias, in his Corinthiacs, —

Dandin. To the point.

L'Intimé. Rebuffi —

Dandin. To the point, I tell you.

L'Intimé. The great Jacques —

Dandin. The point, the point, the point !

L'Intimé. Harmenopul, in fact, —

Dandin. I'll enter your default.

L'Intimé. Oh dear, how rash you act !

Then have the facts. (*Quickly.*) This dog to the kitchen
drawing nigh,

A capon plump and sweet within he did espy :

Now, he for whom I speak with hunger there was hasting ;

He against whom I speak was nicely plucked and basting ;

Then he for whom I speak, seized on, took off, secreted

Him against whom I speak. The larder thus depleted,

He's taken on a writ. Counsel plead pro and con :

A day's fixed. I'm to speak, I speak, and now I've done.

Dandin. Tut, tut, tut, tut ! Learn better how to try your
case.

Th' irrelevant you give at a deliberate pace,

Th' important you run over at a gallop strong.

L'Intimé. The former, may it please you, sir, is fine.

Dandin. It's wrong.

Were causes ever known to be in this way pleaded ?

What say th' assembly ?

Léandre. This style is now most heeded.

L'Intimé (in a vehement tone). Where were we, gentle-
men ? They come. And how come ?

They chase my client, and they force a mansion.

What mansion ? Why, the mansion of our own judge.

They force the cellar which serves us for refuge.

Of brigandage they then accuse us, and of theft :

We're then dragged headlong forth, and to our accusers left,

To master Little John, your honor — I attest.

Who does not know the law : If any Dog (*Digest*

De vi, and see the paragraph *Caponibus*)

Is manifestly contrary to such abuse ?

And when it turned out true that my poor client Citron
 Had eaten all or most of the aforesaid capon,
 Against this trifling deed you will not hesitate
 To weigh our former actions, and let them mitigate.
 When has my client ever been reprimanded?
 By whom has this your house always been defended?
 When have we failed to bark at robbers in our town?
 Witness three low attorneys, from whom we've torn the gown.
 They show you certain fragments to accuse us by;
 Receive these other fragments to help us justify.

Petit Jean. But Adam —

L'Intimé. You keep still.

Petit Jean. L'Intimé —

L'Intimé. You're too rude.

Petit Jean. He's hoarse!

L'Intimé. Shut up!

Dandin. Repose a moment, then conclude.

L'Intimé (in a wheezing voice). Since, then, a moment's
 rest to catch our breath's permitted,

And formal peroration's not t' be intermitted,

I come, without omission or prevarication,

Compendiously t' enunciate an explication,

And hold up to your eyes a general exposition

Of all my cause, and all my client's imposition.

Dandin. T' repeat the same thing twenty times, he pre-
 fers by far,

Than once t' abridge. O man, or whatever else you are,

Devil, conclude! or Heaven seize thee with damnation!

L'Intimé. I finish.

Dandin. Oh!

L'Intimé. Before the world's creation —

Dandin. Oh, skip over to the Flood!

L'Intimé. Well, then, before the birth

Of time, of the material system, and of the earth, —

The world, the universe, and nature universal

Lay buried in the bosom of the material.

The elements, — the fire, the air, the earth, the water, —
 Piled up or buried, are naught but a heap of matter,
 A dire confusion of matter without form,
 Chaos, disorder, and brooding rout enorm.
 As Ovid sings, there was, on all the face of nature, —
 Called chaos by the Greeks, — one rude, indefinite feature.

(*Dandin, being sleepy, nods, and falls heavily.*)

Léandre. My father, what a tumble !

Petit Jean. See how he drops his head !

Léandre. Come, father, rouse yourself !

Petit Jean. Your honor, are you dead ?

Léandre. Father ! I say.

Dandin. Well, well ! what ? who ? a man, it seems.
 Truly, I've been asleep, and had most awful dreams.

Léandre. Come, sir, decide.

Dandin. To the galleys !

Léandre. You hardly can, sir,

Commit a dog that way.

Dandin. No more — you have my answer.

What with the world and chaos, I've such a muddled pate !

Wind up this cause.

L'Intimé (*presenting the puppies to him*). Come hither,
 you family desolate :

Come, little ones, whom he would orphans render,

Give utterance to your understandings tender.

Yes, gentlemen, you here behold our misery :

Restore a father to his orphaned family ;

Our father dear, by whom we were engendered —

Our father dear —

Dandin. This issue can't be tendered.

L'Intimé. Our father, gentlemen —

Dandin. Don't such a noise be keeping.

They're making a great muss there —

L'Intimé. That's our way of weeping !

Dandin. Why, now, I seem to be quite taken with com-
 passion ;

And this which I behold is fit to touch that passion !
 I am quite bothered here. The fact alleged so presses :
 A crime's averred ; th' accused himself confesses.
 But if he is condemned, equal's th' embarrassment ;
 For then these pretty children must be to th' asylum sent.
 But I am occupied. I cannot see a person."

Dogs have always been a favorite subject of imaginary trials, as we have seen in Aristophanes and Racine. In 1681-82 the Earl of Argyle was tried and convicted of high treason in refusing the test oath without certain qualifications. Halifax told Charles II. he understood not the Scotch law, but the English law would not have hanged a dog for such a crime. Clarendon blessed God he lived not in a country where there were such laws. The very hospital children made a mockery of the reasoning of the crown lawyers. The boys of Heriot's Hospital resolved among themselves that the house-dog belonging to that establishment held a public office, and ought to take the test. The paper being presented to him, he refused to swallow the same, unless it was rubbed over with butter. Being then buttered, the dog swallowed it, and was then accused and condemned for having taken the test with a qualification, as in the case of Argyle. There is an exceedingly rare "Account of the Arraignment, Trial, Escape, and Condemnation of the Dog of Heriot's Hospital in Scotland, that was supposed to have been hang'd, but did at last slip the halter." The prisoner's escape was urged as additional proof of his guilt ; and proclamation of attainder was issued against this "cutt-lugged, brownish-coloured Mastiff Tyke, called Watch, short-legged and of low stature."

The dog is again made a scape-goat in "The Trial of

Farmer Carter's Dog for Murder," written in 1771, by Edward Long, some time Judge of the Admiralty Court of Jamaica, which purports to have been composed in consequence of "a real event which actually took place in 1771, near Chichester." The names of the justices engaged in the event ridiculed have been preserved, and it is said that the court were long and well known by the nicknames assigned then in Mr. Long's pamphlet. In presenting this admirable satire in full, I regret that I cannot reproduce the accompanying picture of the criminal, shackled and haltered, sitting bolt upright, in mortal terror.

"COUNTY OF SEXGOTHAM, ss.

At a High Court of Oyer and Terminer and Gaol-Delivery, holden this — day of —, 1771, at Gotham Hall.

Present — The Worshipful J. BOTTLE, Esq., President.

A. NOODLE, MAT O' THE MILL, OSMYN PONSER, Esqs., Just-asses and Associates.

GAME-ACT, *Plaintiff*, v. PORTER, *Defendant*. The court having met, the indictment was read, which we omit for the sake of brevity.

Court. Prisoner, hold up your paw at the bar.

First Counsel. He is sullen, and refuses.

Court. Is he so? Why, then, let the constable hold it up, *nolens volens*. (Which was done according to order.)

Court. What is the prisoner's name?

Constable. P—P—Po—rt—er, an't please your worship.

Court. What does the fellow say?

Constable. Porter! an't please you; *Porter.*

Mat. He says Porter. It's the name of a liquor the London kennel¹ much delight in.

Ponser. Ay! 'tis so; and I remember another namesake of his. I was hand in glove with him. I'll tell you a droll story about him.

Court. Hush, brother. Culprit, how will you be tried?

Counsel for Pros. Please your worship, he won't say a word. *Stat mutus*, — as mute as a fish."

Here imagine the before-described picture inserted.

"*Court.* How? — what? — won't the dog speak? Won't he do what this court bids him? What's to be done? Is the dignity of this court to be trifled with in such a manner?

Counsel for Pros. Please your worships, it is provided by the statute in these cases, that when a culprit is stubborn, and refuses to plead, he is to be made to plead, whether he will or no.

Court. Ay? How's that, pray?

Counsel for Pros. Why, the statute says that he must first of all be *thumb-screwed*.

Court. Very good.

Counsel for Pros. If *that* will not do, he must be laid flat on his back, and squeezed like a cheese in a press with heavy weights.

Court. Very well, and what then?

Counsel for Pros. What then? Why, when all the breath is squeezed out of his body, if he should still continue dumb, which sometimes has been the case, he generally dies for want of breath.

¹ His worship meant *canaille*.

Court. Very likely.

Counsel for Pros. And thereby saves the court a great deal of trouble, and the nation the expense of a halter.

Court. Well, then, since the law stands thus — constable, twist a cord about the culprit's forepaws —

Counsel for Pros. Four paws! Why, he has but two.

Court. Fore paws, or fore feet, blockhead! and strain it as tight as you can till you make him open his mouth. (The constable attempted to enforce the order, but in drawing a little too hard, received a severe bite.)

Constable. 'S blood and suet! He has snapped off a piece off my nose.

Court. Mr. Constable, you are within the statute of swearing, and owe the court one shilling.

Constable. Zounds and death, your worships! I could not help it for the blood o' me.

Court. Now you owe us two shillings.

Constable. That's a d—d bad plaster, your worships, for a sore nose!

Court. That being but half an oath, the whole fine amounts to two shillings and sixpence, or a half-crown bowl. So, without going further, if you are afraid of his teeth, apply this pair of nut-crackers to his tail.

Constable. I shall, your worships. (He had better success with the tail, as will now appear.)

Prisoner. Bow, wow, wow, wow, wow!

Court. Hold, enough! that will do.

It was now held, that though the prisoner expressed himself in a strange language, yet as he could speak no other, and as the law cannot only make dogs to speak,

but explain their meaning, too, so the law understood and inferred that the prisoner pleaded not guilty, and put himself upon his trial. Issue, therefore, being joined, the counsel for the prosecution proceeded to address the court, but was stopped by the other side.

Prisoner's Counsel. I take leave to demur to the jurisdiction of the court. If he is to have a trial *per pares*, you must either suppose their worships to be his equals; that is to say, not his betters, which would be a great indignity: or else you must have a *venire* for a jury of twelve dogs. I think you are fairly caught in this dilemma.

Counsel for Pros. By no means: it is easily cured. We'll send the constable with a *mandamus* to his Grace's kennel.

Prisoner's Counsel. They are foxhounds. Not the same species,—therefore, not his equals. I do not object to the harriers, nor to a *tales de circumstantibus*.

Counsel for Pros. That's artful, brother; but it won't take. I smoke your intention of garbling a jury. You know the harriers will be partial, and acquit your client at any rate. Neither will we have any thing to do with your *tales*.

Mat. No, no: you say right. I hate your tales and tale-bearers. They are a rascally pack altogether.

Counsel for Pros. Besides, the statute gives your worships ample jurisdiction in this case: and if it did not give it, your worships know how to take it; because the law says, *boni est judicis ampliare jurisdictionem*.

Prisoner's Counsel. Then I demur for irregularity. The prisoner is a dog, and cannot be triable as a man. *Ergo*, not within the intent of the statute.

Counsel for Pros. That's a poor subterfuge. If the statute respects a man (*a fortiori*), it will affect a dog.

Ponser. You are certainly right: for when I was in the Turkish dominions, I saw an Hebrew Jew put to death for killing a dog; although dog was the aggressor.

Counsel for Pros. A case in point, please your worships, and a very curious and learned one it is; and the plain induction from it is this: that the Jew (who I take for granted was a man), being put to death for killing a dog, it follows that said dog was as respectable a person, and of equal rank in society with the said Jew; and therefore — *ergo* — and moreover, that said dog so slain was, to all and every purpose of legal inference and intendment, neither more nor less than a man.

Court. We are all clearly of that opinion.

Counsel for Pros. Please your worships of the honorable bench. On Saturday, the — of February, instant, on or about the hour of five in the afternoon, the deceased Mr. Hare was travelling quietly about his business, in a certain highway or road leading towards Muckingham; and then and there, the prisoner at the bar, being in the same road, in and upon the body of the deceased, with force and arms, a violent assault did make; and further, not having the fear of your worships before his eyes, but being moved and seduced by the instigation of a devilish fit of hunger, he the said prisoner did him, the said deceased, in the peace of our lord of the manor then and there being, feloniously, wickedly, wantonly, and of malice aforethought, tear, wound, pull, haul, tousle, macerate, masticate, lacerate, and dislocate, and otherwise evilly entreat; of all and singular which tearings, woundings, pullings, haulings, tousleings, mas-

tications, and so forth, maliciously inflicted in manner and form aforesaid, the said Hare did languish, and languishing did die, in Mr. Just-ass Ponser's horse-pond, to wit: and that is to say, contrary to the statute in that case made and provided, and against the peace of our said lord, his manor and dignity.

This, please your worships, is the purport of the indictment: to this indictment the prisoner has pleaded not guilty, and now stands upon his trial before this honorable bench.

Your worships will therefore allow me, before I come to call our evidence, to expatiate a little upon the heinous sin of which the prisoner at the bar is charged. Hem! — to murder — Ehem! — to murder, may it please your worships, in Latin, is — is — *murderare*; or in the true and original sense of the word, *murder-ha-re*. *H*, as your worships well know, being not as yet raised to the dignity of a letter by any act of parliament, it follows that it plainly is no other than *murder-a-re*, according to modern refined pronunciation. The very root and etymology of the word does therefore comprehend in itself a thousand volumes in folio, to show the nefarious and abominable guilt of the prisoner in the commission and perpetration of this horrid fact. And it must appear as clear as sunshine to your worships, that the word *murder-are*, which denotes the prisoner's crime, was expressly and originally applied to that crime, and to that only, as being the most superlative of all possible crimes in the world. I do not deny, that since it first came out of the mint, it has through corruption been affixed to offences of a less criminal nature, such as killing a man, a woman, or a child. But the sense of the earliest ages having

stamped hare-murder, or *murder-ha-re* (as the old books have it), with such extraordinary atrociousness, I am sure that Just-asses of your worships' acknowledged and well-known wisdom, piety, erudition, and humanity, will not at this time of the day be persuaded to hold it less detestable and sinful. Having said thus much on the nature of the prisoner's guilt, I mean not to aggravate the charge, because I shall always feel due compassion for my fellow-creatures, however wickedly they may demean themselves. I shall next proceed, with your worships' leave, to call our witnesses. Call Lawrence Lurcher and Toby Tunnel.

Prisoner's Counsel. I must object to swearing these witnesses. I can prove they were both of them drunk, and *non compos*, during the whole evening when this act is supposed to have been committed.

Bottle. That will do you no service : I am very often drunk myself, and never more in my senses than at such times.

Court. We all agree in this point with brother Bottle. (Objection overruled, and witnesses sworn.)

Lurcher. As I and Toby Tunnel here was a-going hoam to Squire Ponser's, along the road, one evening after dark, we sees the prisoner at the bar, or somebody like him, lay hold of the deceased, or somebody like him, by the back, an't please your worships. So, says I, Toby, says I, that looks, for all the world, like one of Squire Ponser's hares. So the deceased cried out pitifully for help, and jumped over a hedge, and the prisoner after him, growling and swearing bitterly all the way. So, says I, Toby, let's run after 'um. So I scrambled up the hedge ; but Toby laid hold of my leg to help himself

up, so both of us tumbled through a thick furze bush into the ditch. So next morning, as we was a-going by the squire's, we sees the deceased in his worship's horse-pond.

Prisoner's Counsel. Are you sure he was dead?

Lurcher. Ay, as dead as my great-grandmother.

Prisoner's Counsel. What did you do with the body?

Ponser. That's not a fair question. It ought not to be answered.

Lurcher. I bean't ashamed nor afeard to tell, not I. We carried it to his worship Squire Ponser; and his worship had him roasted, with a pudding in his belly, for dinner, that same day.

Counsel for Pros. That is nothing to the purpose. Have you any more questions for the witness?

Prisoner's Counsel. Yes, I have. Pray, friend, how do you know the body you found was the very same you saw on the evening before?

Lurcher. I can't tell, but I'm ready to take my Bible oath on't.

Prisoner's Counsel. That is a princely argument, and I shall ask you nothing further.

Mrs. Margery Dripping, cook to his worship Squire Ponser, deposed to the condition of the deceased.

DEFENCE.

Prisoner's Counsel. Please your worships, I am counsel for the prisoner, who, in obedience to your worship's commands, has pleaded not.guilty; and I hope to prove that his plea is a good plea, and that he must be acquitted by the justice of his cause. In the first place, the witnesses have failed in proving the prisoner's identity;

next, they have not proved the identity of the deceased ; thirdly, they do not prove who gave the wounds ; fourthly, nor to whom they were given ; fifthly, nor whether the party died of the wounds, if they were given, as supposed, to this identical hare. For I insist upon it, that because a hare was found in the squire's horse-pond, *non sequitur* that he was killed and thrown in by the defendant. Or if they had proved that defendant had maliciously, and *animo furioso*, pursued the deceased into the horse-pond, it does not prove the defendant guilty of his death, because he might owe his death to the water ; and therefore in that case the pond would be guilty ; and if guilty, triable ; and if triable, punishable for the same, and not my client. And I must say, under favor, that his worship would likewise be *particeps criminis*, for not having filled it up to prevent such accidents. One evidence, who never saw the prisoner till now, nor the deceased till after the fact supposed to have happened, declares he is sure the prisoner killed the deceased. And why? Because he is ready to take his Bible oath on't. This is, to be sure, a very logical conviction.

Court. It is a very legal one, and that's better.

Prisoner's Counsel. I submit to your wisdoms. But I must conclude with observing, that admitting a part of the evidence to be true, viz., that the prisoner did meet the deceased on the highway, and held some conference with him, — I say, that supposing this, for argument's sake, I do insist that Mr. Hare, the deceased, was not following a lawful, honest business at that late hour, but was wickedly and mischievously bent upon a felonious design of trespassing on farmer Carter's ground, and

stealing, consuming, and carrying off his corn and his turnips. I further insist, that the defendant, knowing this his felonious and evil machination, and being resolved to defend the property of this his good friend and patron from such depredations, did endeavor to divert him from it, which, not being able to effect by fair means, he was then obliged to try his utmost, as a good subject and trusty friend, to seize and apprehend his person, and bring him, *per habeas corpus*, before your worships, to be dealt with according to law. But the deceased, being too nimble for him, escaped out of his clutches, and tumbling accidentally in the dark into his worship's horse-pond, was there drowned. This is, I do not doubt, a true history of the whole affair, and proves, that in the strictest construction of law, it can only be a case of *per infortunium*, unless your worship should rather incline to deem it a *felo de se*.

Noodle. A fall in the sea! No such thing: it was only a horse-pond; that's clear from the evidence.

Prisoner's Counsel. Howsoever your worships may think fit to judge of it, I do humbly conceive, upon the whole matter, that the defendant is not guilty; and I hope your worships, in your wisdoms, will concur with me in opinion, and acquit him.

The counsel for the prosecution replied in a long speech. He contended that Mr. Hare, the deceased, was a peaceable, quiet, sober, and inoffensive sort of a person, beloved by king, lords, and commons, and never was known to entertain any idea of robbery, felony, or depredation, but was innocently taking the air one afternoon for the benefit of his health, when he was suddenly accosted, upon his majesty's highway, by the prisoner,

who immediately and bloody-mindedly, without saying a syllable, made at him, with so much fury in his countenance, that the deceased was put in bodily fear, and being a lover of peace, crossed the other side of the way: the prisoner followed him close, and pressed him so hard that he was obliged to fly over hedge and ditch, with the prisoner at his heels. It was at this very juncture they were observed by the two witnesses first examined. The learned counsel further affirmed from circumstances, which he contended amounted to presumptive evidence, that after various twinings and windings, in his endeavors to escape, his foot slipped, and the prisoner seized him and inflicted divers wounds; but that the deceased, finding means to get away, took to the pond, in order to swim across; when the prisoner, running round the pond incessantly, prevented his escape; so that faint and languishing under his wounds and loss of blood, the hapless victim there breathed his last, in manner and form as the indictment sets forth. He also alleged, that as Mr. Hare lived within his worship's territory, where there are several more of the same family, he could not therefore be going to farmer Carter's; for that would have been absurd, when he might have got corn and turnips enough on his worship's own ground. Can there, said the learned gentleman, be a stronger, a weightier, a surer, a — a — a?

Court. We understand you. It is as clear as crystal. (Their worships in consultation.)

Court. Has the prisoner's counsel any thing further to offer in his behalf?

Prisoner's Counsel. Call farmer Carter. Pray, farmer Carter, inform the court what you know of the prisoner's life, character, and behavior?

Carter. I have known the prisoner these several years. He has lived in my house great part of that time. He was always sober —

Court. Never the honestest for that. Well, go on.

Carter. Sober, honest, sincere, trusty, and careful. He was one of the best and most faithful friends I ever knew. He has many a time deterred thieves from breaking into my house at night, and murdering me and my family. He never hated nor hurt anybody but rogues and night-walkers. He performed a million of good offices for me, for no other recompense than his victuals and lodging, and seemed always happy and contented with what I could afford him, however scanty the provision. He has driven away many a fox that came to steal my geese and turkeys, and for taking care of a flock of sheep there is not his equal in the country. In short, whenever he dies I shall lose my best friend, my best servant, and most vigilant protector. I am positive that he is as innocent as a babe of the crime charged upon him; for he was with me the whole evening, and supped and slept at home. He was, indeed, my constant companion; and we were seldom or never asunder. If your worships please, I'll be bail for him from five pounds to five hundred.

Court. That cannot be: it is not aailable offence. Have you any thing else to say, Mr. Positive?

Carter. Say? I think I've said enough, if it signified any thing.

Bottle. Drag him away out of hearing.

Carter. I will have justice! You, all of ye, deserve hanging more than your prisoner; and you all know it too.

Court. Away with him, constable! Scum of the earth! Base-born peasant! (Carter is hauled out of the court, after a stout resistance.)

Court. A sturdy beggar! We must find out some means of wiring that fellow.

The counsel for the prosecution prayed sentence of death upon the culprit at the bar.

Court. How says the statute? Are we competent for this?

Counsel for Pros. The statute is, I confess, silent. But silence gives consent. Besides, this is a case of the first impression, and unprovided for by law. It is your duty, therefore, as good and wise magistrates of the Hundreds of Gotham, to supply this defect of the laws, and to suppose that the law, where it says nothing, may be meant to say whatever your worships shall be pleased to make it.

Bottle. It is now incumbent upon me to declare the opinion of this high and right worshipful court here assembled. Shall the reptile of a dung-hill, a paltry muck-worm, a pitchfork fellow, presume for to go for to keep a dog? And not only a dog, but a dog that murders hares? Are these divine creatures, that are religiously consecrated to the mouths alone of squires and nobles, to become the food of garlic-eating rogues? It is a food that nature and policy forbid to be contaminated by their profane teeth. It is by far too dainty for their robustious constitutions. How are our clayey lands to be turned up and harrowed, and our harvests to be got in, if our laborers, who should strengthen themselves with beef and ale, should come to be fed with hare, partridge, and pheasant? Shall we suffer our giants to be

nourished with mince-meat and pap? Shall we give our horses chocolate and muffins? No, gentlemen. The brains of laborers, tradesmen, and mechanics (if they have any), should ever be sodden and stupefied with the grosser aliments of bacon and dumpling. What is it but the spirit of poaching that has set all the lower class, the *canaille*, a-hunting after hares' flesh? You see the effects of it, gentlemen: they are all run mad with politics, resist their rulers, despise their magistrates, and abuse us in every corner of the kingdom. If, you had begun hanging of poachers ten years ago, d'ye think you would have had one left in the kingdom by this time? No; I'll answer for it: and your hares would have multiplied till they had been as plenty as blackberries, and not left a stalk of corn upon the ground. This, gentlemen, is the very thing we ought to struggle for, that these insolent clowns may come to find that the only use they are good for, is to furnish provision for these animals. In short, gentlemen, although it is not totally clear from the evidence that the prisoner is guilty, nevertheless hanged he must and ought to be *in terrorem* to all other offenders. Therefore, let the culprit stand up, and hearken to the judgment of the court.

Constable. Please, your worship, he's up.

Bottle. Porter, thou hast been found guilty of a most daring, horrible, and atrocious crime. Thou hast, without being qualified as the law directs, and without license or deputation from the lord of the manor, been guilty of shedding innocent blood. In so doing, thou hast broken the peace of the realm, set at naught the laws and statutes of thy country, and (what is more than all these) offended against these respectable personages, who have

been sitting in judgment upon thee. For all this enormity of guilt, thy life doth justly become forfeit, to atone for such manifold injuries done to our most excellent constitution. We did intend, in Christian charity, to have given some moments for thy due repentance, but as the hour is late, and dinner ready, now hear thy doom. Thou must be led from the bar to the end of the room, where thou art to be hanged by the neck to yonder beam, *coram nobis*, till you are dead, dead, dead. Hangman, do your duty.

Constable. Please your worships, all is ready.

Ponser. Hoist away, then; hoist away. (Porter is tucked up.)

Mat. Come, it seems to be pretty well over with him now. The constable has given him a jerk, and done his business.

Bottle. He's an excellent fellow.

Ponser. The best informer in the whole country.

Bottle. And must be well encouraged.

Ponser. He shall never want a license whilst I live.

Noodle. Come, shall we go to dinner?

Bottle. Ay: he'll never course hares again in this world. Gentlemen, the court is adjourned. (*Exeunt omnes.*)"

EPITAPH,

Composed by Sam Snivel, the parish clerk, proposed to be put, at farmer Carter's expense, on the unfortunate malefactor's tombstone: "Here lie the remains of honest *Porter*, who, after an innocent and well-spent life, was dragged hither, and tried for a crime he never committed, upon laws to which he was unamenable, before men who

were no judges, found guilty without evidence, and hanged without mercy ; to give to future ages an example that the spirit of Turkish despotism, tyranny, and oppression, after glutting itself with the conquest of liberty in British men, has stooped at length to wreak its bloody vengeance on British dogs ! *Anno Dom. 1771. Requiescat in pace.*"

All the unities seem to be observed in this account. The only imaginable improvement would be, to write the epitaph in dog Latin.

"The Arraigning and Indicting of Sir John Barleycorn, Knt., printed for Timothy Tossopot," is a whimsical little tract, in which the knight is put upon his trial at the sign of the Three Loggerheads, before "Oliver, and Old Nick, his holy father," as judges. The witnesses for the prosecution were cited under the hands and seals of the said judges, sitting "at the sign of the Three Merry Companions in Bedlam ; that is to say, Poor Robin, Merry Tom, and Jack Lackwit." The prisoner pleaded not guilty, and Lawyer Noisy thus opened the cause : "May it please your lordship, and gentlemen of the jury, I am counsel for the king against the prisoner at the bar, who stands indicted of many heinous and wicked crimes, in that the said prisoner, with malice prepense and several wicked ways, has conspired and brought about the death of several of his majesty's loving subjects, to the great loss of several poor families, who by this means have been brought to ruin and beggary, which, before the wicked designs and contrivances of the prisoner, lived in a flourishing and reputable way, but now are reduced to low circumstances and great misery, to the great loss of their own families and the nation in general. We shall

call our evidence ; and if we make the facts appear, I do not doubt but you will find him guilty, and your lordship will award such punishment as the nature of his crimes deserves." Vulcan, the blacksmith, then testified that the prisoner had quarrelled with him, thrown him down, picked his purse, and set his wife a-scolding. Will, the weaver, that the prisoner had bound him hand and foot, thrown him in a ditch, and dislocated his shoulder. Stitch, the tailor, to the same effect. Wheatley, the baker, that the prisoner had spoiled his business. The prisoner, being called on for his defence, urged that he was a friend to his accusers until they abused him, and that if any one was to blame, it was his brother Malt, who, being called, urged the same arguments. Thomas, the ploughman, Bunch, the brewer, and Mistress Hostess, gave the prisoner an excellent character, insisting that he was indispensable to them, and that "if you put him to death, all England is undone : for there is not another in the land can do as he can do, and hath done ; for he can make a cripple go, a coward fight, and a soldier neither feel hunger nor cold." The court then charge the jury : "You have now heard what has been offered against Sir John Barleycorn, and the evidence that has been produced in his defence. If you are of opinion that he is guilty of those wicked crimes laid to his charge, and has with malice prepense conspired and brought about the death of several of his majesty's loving subjects, you are then to find him guilty ; but if, on the contrary, you are of opinion that he had no real intention of wickedness, and was not the immediate, but only the accidental, cause of these evils laid to his charge," — that is, I suppose, if the complainant's negligence contributed to produce the

injury, — “ then, according to the statute law of this kingdom, you ought to acquit him.” Verdict, Not guilty. It is to be noted that the prisoner, according to the common law usage, had no counsel ; and it may well be, that if all prisoners were as influential with courts and juries as Sir John, their rights would be safe without counsel in these days.

Another curious trial is that of Flora, in “ *Fvnebria Floriæ*, or the Downfall of May-Games,” a tract published in 1661 by Thomas Hall. The arraignment is as follows : “ Flora, hold up thy hand. Thou art here indicted by the name of Flora, of the city of Rome, in the county of Babylon, for that thou, contrary to the peace of our sovereign lord, his crown and dignity, hast brought in a pack of practical fanatics ; viz., ignorants, atheists, papists, drunkards, swearers, swash bucklers, maid Marians, morrice dancers, maskers, mummers, May-pole stealers, health-drinkers, together with a rascallion rout of fiddlers, fools, fighters, gamesters, lewd women, light women, contemptners of magistracy, affronters of ministry, rebellious to masters, disobedient to parents, misspenders of time, and abusers of the creature,” etc.

“ *Fudge.* What sayest thou, guilty or not guilty ?

Prisoner. Not guilty, my lord.

Fudge. By whom wilt thou be tried ?

Pris. By the pope’s holiness, my lord.

Fudge. He is thy patron and protector, and so unfit to be a judge in this case.

Pris. Then I appeal to the prelates and lord bishops, my lord.

Fudge. This is but a tiffany put off ; for though some of that rank did let loose the rein to such profaneness in

causing the book of sports, for the profanation of God's holy day, to be read in churches, yet 'tis well known that the gravest and most pious of that order have abhorred such profaneness and misrule.

Pris. Then I appeal to the rout and rabble of the world.

Fudge. These are thy followers and thy favorites, and unfit to be judges in their own case.

Pris. My lord, if there be no remedy, I am content to be tried by a jury.

Fudge. Thou hast well said : thou shalt have a full, a fair, and a free hearing. Crier, call the jury.

Crier. O yes ! O yes ! All manner of persons that can give evidence against the prisoner at the bar, let them come into court, and they shall be freely heard.

Fudge. Call in the *Holy Scriptures*.

Crier. Make room for the *Holy Scriptures* to come in."

Not only the *Holy Scriptures*, but Pliny, Lactantius, Synodus Francica, Charles the Second, Ordinance of Parliament, Solemn League and Covenant, Order of the Council of State, Mr. Elton, Dr. Ames, Bishops Babington and Andrews, and finally Ovid, give testimony against the unfortunate goddess. No one appeared to testify in her behalf, and she was adjudged to perpetual banishment ; the judge pronouncing sentence without any verdict from the jury, or summing up in the prisoner's behalf. It is evident that these trials, like parables, "do not go on all fours."

About the beginning of the eighteenth century, in England, the "Royal Oak Lottery," as the rival, if not the parent, of the various other demoralizing schemes of the

same sort, obtained the largest share of public odium. The evils it had created are popularly set forth in a tract, entitled "The Arraignment, Trial, and Condemnation of Squire Lottery, *alias* Royal Oak Lottery," London, 1699. The following jurors were impanelled: Mr. Positive, a draper in Covent Garden; Mr. Squander, an oilman in Fleet Street; Mr. Pert, a tobacconist, ditto; Mr. Captious, a milliner in Paternoster Row; Mr. Feeble, a coffee-man near the Change; Mr. Altrick, a merchant in Grace-church Street; Mr. Haughty, a vintner, by Gray's Inn, Holborn; Mr. Jealous, a cutler, at Charing Cross; Mr. Peevish, a bookseller, in St. Paul's Churchyard; Mr. Spilbook, near Fleet Bridge; Mr. Noysie, a silkman upon Ludgate Hill; Mr. Finical, a barber in Cheapside. The indictment and arraignment are as follows: "You stand indicted by the name of Squire Lottery, *alias* Royal Oak Lottery, for that you, the said Squire Lottery, not having the fear of God in your heart, nor weighing the Regard and Duty you owe, and of right ought to pay, to the Interest, Safety, and Satisfaction of your Fellow-Subjects, have from time to time, and at several times, and in several places, contrary to the known Laws of this Kingdom, under the shadow and coverture of a Royal Oak, propagated, continued, and carried on a most unequal, intricate, and insinuating Game, to the utter ruin and destruction of many thousand Families; and that you, the said Squire Lottery, *alias* Royal Oak Lottery, as a common Enemy to all young People, and an inveterate Hater of all good Conversation and Diversion, have for many years past, and do still continue, by certain cunning Tricks and Stratagems, insidiously, falsely, and impiously, to trepan, cheat, deceive, decoy, and entice divers Ladies, Gentlemen, Citizens,

Apprentices, and others, to play away their Money, at manifest Odds and Disadvantage ; and that you, the said Squire Lottery, *alias* Royal Oak Lottery, the more secretly and effectually to carry on and propagate your base, malicious, and covetous Designs and Practices, did and do still encourage several lewd and disorderly Persons, to meet, propose, treat, consult, consent, and agree upon several unjust and illegal methods, how to ensnare and entangle People into your delusive Game ; by which means, you have for many years past, utterly, entirely, and irrecoverably, contrary to all manner of Justice, Humanity, or good Nature, despoiled, depraved, and defrauded an incredible number of Persons of every Rank, Age, Sex, and condition, of all their Lands, Goods, and Effects ; and from the Ruins of multitudes built fine Houses, and purchased large Estates, to the great Scandal and reflection on the Wisdom of the Nation, for suffering such an intolerable Imposter to pass so long unpunished. What say'st thou, Squire Lottery? art thou guilty of the aforesaid Crimes, Cheats, Tricks, and Misdemeanors, thou stand'st Indicted of, or not Guilty?

Lottery. Not Guilty. But before I proceed to make my Defence, I beg I may be permitted the assistance of three or four learned Sharpers to plead for me, in case any Matter of Law arise."

The managers for the prosecution then call as witnesses Captain Pasthope and Counsellor Frivolous, who testified as to the means used by the accused to ruin themselves and others. The prisoner called Captain Quondam and Mr. Scamper, who spoke to his good character. The jury found against the prisoner, who, with Mr. Auction and Dr. Sandbank, also tried and convicted,

was then sentenced. The prisoner, in the course of his argument, uttered the following, which, however true it may have been of his country, certainly can have no application to this nation and these days. "If all the Knaves and Cheats of the Nation were called to the Bar and executed, there would only be a few Fools left to defend the Commonwealth."

Under the present heading may properly be cited some extracts from "*Le Revenant*," a paper published in Blackwood for April, 1827, purporting to be the relation of one who had been hanged and was still alive. The account of the trial is terribly powerful and lifelike.

"The whole business of my trial and sentence passed over as coolly and formally as I would have calculated a question of interest, or summed up an underwriting account. I had never, though I lived in London, witnessed the proceedings of a criminal court before; and I could hardly believe the composure and indifference, and yet civility, — for there was no show of anger or ill-temper, — with which I was treated, together with the apparent perfect insensibility of all the parties round me, while I was rolling on with a speed which nothing could check, and which increased every moment, to my ruin. I was called suddenly up from the dock, when my turn for trial came, and placed at the bar; and the judge asked, in a tone which had neither severity nor compassion about it, nor carelessness nor anxiety, nor any character or expression whatever that could be distinguished, 'If there was any counsel appeared for the prosecution?' A barrister then, who seemed to have some consideration, — a middle-aged, gentlemanly-looking man, — stated the case against me, as he said he

would do, 'very fairly and forbearingly;' but as soon as he read the facts from his brief, 'that only,' I heard an officer of the gaol who stood behind me say, 'put the rope about my neck.' My master then was called to give his evidence, which he did very temperately; but it was conclusive. A young gentleman, who was my counsel, asked a few questions in cross-examination, after he had carefully looked over the indictment; but there was nothing to cross-examine upon. I knew that well enough, though I was thankful for the interest he seemed to take in my case. The judge then told me, I thought more gravely than he had spoken before, 'that it was time for me to speak in my defence, if I had any thing to say.' I had nothing to say. I thought one moment to drop down on my knees and beg for mercy, but again I thought it would only make me look ridiculous; and I only answered as well as I could, 'that I would not trouble the court with any defence.' Upon this the judge turned round, with a more serious air still, to the jury, who all stood up to listen to him as he spoke. And I listened, too, — or tried to listen attentively, — as hard as I could; and yet with all I could do, I could not keep my thoughts from wandering. For the sight of the court, — all so orderly and regular and composed and formal and well satisfied, — spectators and all, — while I was running on with the speed of wheels on smooth soil down hill to destruction, seemed as if the whole trial were a dream, and not a thing in earnest. The barristers sat round the table silent, but utterly unconcerned; and two were looking over their briefs, and another was reading a newspaper; and the spectators in the gallery looked on and listened as pleasantly as though it were a

matter, not of death, going on, but of pastime or amusement; and one very fat man, who seemed to be the clerk of the court, stopped his writing when the judge began, but leaned back in his chair with his hands in his breeches pockets, except once or twice that he took snuff; and not one living soul seemed to take notice—they did not seem to know the fact—that there was a poor, desperate, helpless creature, whose days were fast running out, whose hours of life were even with the last grains in the bottom of the sand-glass, among them! I lost the whole of the judge's charge, thinking of I know not what,—in a sort of dream,—unable to steady my mind to any thing, and only biting the stalk of a piece of rosemary that lay by me. But I heard the low, distinct whisper of the foreman of the jury, as he brought in the verdict, 'GUILTY,' and the last words of the judge, saying, 'that I should be hanged by the neck until I was dead,' and bidding me 'prepare myself for the next life, for my crime was one that admitted of no mercy in this.' As the door of the court closed behind us, I saw the judge fold up his papers, and the jury being sworn in the next case."

To pass "from grave to gay:" I had hesitated for a moment whether to include the following under the head of imaginary trials, for it seems as true as Robinson Crusoe; but as a justice of the peace could scarcely have had jurisdiction of an action of damages for breach of promise of marriage, and parties at the time indicated were not competent to testify on their own behalf, I have concluded that it must fall under my province.

"*Phillis Schoonmaker v. Cuff Hogeboom*. This was an action for a breach of the marriage promise, tried before

Squire De Witt, justice of the peace and quorum, at New Paltz, N.Y. The parties, as their names indicate, were black, or, as philanthropists would say, colored folk. Counselor Van Schaaick appeared on behalf of the lady. He recapitulated the many verdicts which had been given of late in favor of injured innocence, much to the honor and gallantry of an American jury. It was time to put an end to these faithless professions, to these cold-hearted delusions: it was time to put a curb upon the false tongues and false hearts of pretended lovers, who, with honied accents, only woo'd to ruin, and only professed to deceive. The worthy counsellor trusted that no injurious impression would be made on the minds of the jury by the color of his client: —

“ ‘Tis not a set of features,
This tincture of the skin, that we admire.’

“She was black, it was true; so was the honored wife of Moses, the most illustrious and inspired of prophets. Othello, the celebrated Moor of Venice, and the victorious general of her armies, was black; yet the lovely Desdemona saw ‘Othello’s visage in his mind.’ In modern times, we might quote his sable majesty of Hayti, or since that country had become a republic, the gallant Boyer. He could also refer to Rhio Rhio, king of the Sandwich Islands, his copper-colored queen, and Madam Poki, so hospitably received and fed to death by their colleague, the King of England — nay, the counsellor was well advised that the brave general Sucre, the hero of Ayachucho, was a dark mulatto. What, then, is color in estimating the griefs of a forsaken and ill-treated female? She was poor, it was true, and in a humble sphere of

life ; but love levels all distinctions : the blind god was no judge and no respecter of colors ; his darts penetrated deep, not skin deep : his client, though black, was flesh and blood, and possessed affections, passions, resentments, and sensibilities ; and in this case she confidently threw herself upon a jury of freemen, — of men of the North, as the friends of the Northern President would say, of men who did not live in Missouri, and on sugar-plantations ; and from such his client expected just and liberal damages.

“Phillis then advanced to the bar to give her testimony. She was, as her counsel represented, truly made up of flesh and blood, being what is called a strapping wench, as black as the ace of spades. She was dressed in the Low-Dutch fashion, which has not varied for a century, — linsey-woolsey petticoats, very short ; blue worsted stockings ; leather shoes, with a massive pair of silver buckles ; bead ear-rings ; her woolly hair combed, and face sleek and greasy. There was no ‘dejected haviour of visage ;’ no broken heart visible in her face ; she looked fat and comfortable, as if she had sustained no damage by the perfidy of her swain. Before she was sworn, the court called the defendant, who came from among the crowd, and stood respectfully before the bench. Cuff was a good-looking young fellow, with a tolerably smartish dress, and appeared as if he had been in the metropolis, taking lessons of perfidious lovers : he cast one or two cutting looks at Phillis, accompanied by a significant turn up of the nose, and now and then a contemptuous ejaculation of Eh ! — Umph ! — Ough ! — which did not disconcert the fair one in the least ; she returning the compliment by placing her arms a-kimbo,

and surveying her lover from head to foot. The court inquired of Cuff whether he had counsel? 'No, massa,' he replied; 'I tell my own 'tory: you see, Massa Squire, I know de gentlemen of de jury berry vell; dere is Massa Teerpenning of Little 'Sophus—know him berry vell; I plough for him: den dere is Massa Traphagan of our town—how he do, massa?—ah! dere Massa Topper, dat prints de paper at Big 'Sophus—know him too: dere is Massa Peet Steenberg—know him too; he owe me little money:—I know 'em all, Massa Squire. I did go to get Massa Lucas to plead for me, but he gone to the Court of Error at Albany: Massa Sam Free and Massa Cockburn said they come to gib me good character, but I no see 'em here.'

"Cuff was ordered to stand aside, and Phillis was sworn. Plaintiff said she did not know how old she was; believed she was sixteen;—she looked nearer twenty-six;—she lived with Hons Schoonmaker; was brought up in the family. She told her case as pathetically as possible. 'Massa Squire,' said she, 'I was gone up to Massa Schoonmaker's lot, on Shaungum Mountain, to pile brush: den Cuff, he vat stands dare, cum by vid de teem; he top his horses and say, "How de do, Phillis?"' or as she gave it probably in Dutch, 'How gaud it mit you?'—"Hail goot," said I: den massa he look at me berry hard and say, "Phillis, pose you meet me in the nite, ven de moon is up, near de barn; I got sumting to say:" den I say, "Berry well, Cuff, I vill;" he vent up de mountain, and I vent home: ven I eat my supper, and milk de cows, I say to myself, Phillis, pose you go down to de barn, and hear what Cuff has to say. Vell, Massa Squire, I go. Dare was Cuff, sure enough. He told me heaps of tings

all about love ; called me Weenus, and Jewpeter, and oder tings vat he got out of de playhouse ven he vent down in de slope to New York ; and he ax'd me if I'd marry him before de Dominie, Osterhaut, he vat preached in Milton, down 'pon Marlbro'. I say, "Cuff, you make fun on me : " he say, "No, by mine zeal. I vil marry you, Phillis : " den he gib me dis here as earnest.' Phillis here drew from her huge pocket an immense pair of scissors, a jack-knife, and a wooden pipe curiously carved, which she offered as a testimony of the promise, and which was sworn to as the property of Cuff, who subsequently had refused to fulfil the contract.

"Cuff admitted that he had made her a kind of promise, but that it was conditional. 'I told her, Massa Squire, that she was a slave and a nigger, and she must wait till the year '27, then all would be free, 'cording to the new constitution : den she said, "Berry vell, I vill vait."'

"Phillis utterly denied the period of probation : it was to take place, she said, 'ven he got de new corduroy breeches from Crippleley Coon, de tailor ; he owe three and sixpence, and Massa Coon won't let him hab dem vidout de money : den Cuff, he run away to Varsing ; I send Coon Crook, de constable, and he find um at Shandakin, and he bring him before you, massa.'

"The testimony here closed. The court charged the jury, that although the testimony was not conclusive, yet the court was not warranted in taking the case out of the hands of the jury. A promise had evidently been made, and had been broken. Some difference existed as to the period when the matrimonial contract was to have been fulfilled : and it was equally true and honorable, that in the year 1827, slavery was to cease in the State, and that

fact might have warranted the defendant in the postpone-ment; but of this there was no positive proof: and as the parties could neither read nor write, the presents might be construed into a marriage promise. The court could see no reason why these humble Africans should not, in imitation of their betters, in such cases, appeal to a jury for damages; but it was advisable not to make those damages more enormous than circumstances warranted, yet sufficient to act as a lesson to those colored gentry in their attempts to imitate fashionable infidelity.

"The jury brought in a verdict of ten dollars and costs for the plaintiff. The defendant, not being able to pay, was committed to Kingston jail, — a martyr to his own folly, and an example to all in like cases offending."

STEVENS.

In a curious little book entitled "A Lecture on Heads, by George Alexander Stevens, with Additions by Mr. Pilou, as delivered by Mr. Charles Lee Lewes," published in London, A.D. 1802, and adorned with woodcuts after Thurston's designs, we find the following chapter on law, illustrated with cuts of the respective counsel for the Bull and the Boat: —

"Law is law, law is law, and as in such and so forth, and hereby and aforesaid, provided always, nevertheless, notwithstanding. Law is like a country dance: people are led up and down in it till they are tired. Law is like a book of surgery: there are a great many terrible cases in it. It is also like physic: they that take the least of it are best off. Law is like a homely gentlewoman, very well to follow. Law is also like a scolding wife, very bad when it follows us. Law is like a new

fashion ; people are bewitched to get into it : it is also like bad weather ; most people are glad when they get out of it.

"We shall now mention a cause called '*Bullum versus Boatum*.' It was a cause that came before me. The cause was as follows : There were two farmers, — Farmer A and Farmer B. Farmer A was seised or possessed of a bull : Farmer B was seised or possessed of a ferry-boat. Now, the owner of the ferry-boat had made his boat fast to a post on shore with a piece of hay, twisted rope-fashion, or as we say, *vulgo vocato*, a hay-band. After he had made his boat fast to a post on shore, as it was very natural for a hungry man to do, he went up town to dinner. Farmer A's bull, as it was very natural for a hungry bull to do, came down town to look for a dinner ; and observing, discovering, seeing, and spying out some turnips in the bottom of the ferry-boat, the bull scrambled into the ferry-boat. He ate up the turnips, and to make an end of his meal, fell to work upon the hay-band : the boat, being eaten from its moorings, floated down the river, with the bull in it ; it struck against a rock, beat a hole in the bottom of the boat, and tossed the bull over-board. Whereupon the owner of the bull brought his action against the boat for running away with the bull. The owner of the boat brought his action against the bull for running away with his boat. And thus notice of trial was given, *Bullum versus Boatum*, *Boatum versus Bullum*.

"Now, the counsel for the Bull began with saying, 'My lord, and you gentlemen of the jury, we are counsel in this cause for the bull. We are indicted for running away with the boat. Now, my lord, we have heard of running horses, but never of running bulls before. Now,

my lord, the bull could no more run away with the boat than a man in a coach may be said to run away with the horses: therefore, my lord, how can we punish what is not punishable? How can we eat what is not eatable? Or how can we drink what is not drinkable? Or, as the law says, how can we think on what is not thinkable? Therefore, my lord, as we are counsel in this cause for the bull, if the jury should bring the bull in guilty, the jury would be guilty of a bull.'

"The counsel for the boat observed that the bull should be nonsuited, because, in his declaration, he had not specified what color he was of; for thus wisely and thus learnedly spoke the counsel: 'My lord, if the bull was of no color, he must be of some color; and if he was not of any color, what color could the bull be of?' I overruled this motion myself, by observing the bull was a white bull, and white is no color: besides, as I told my brethren, they should not trouble their heads to talk of color in the law; for the law can color any thing. This cause being afterward left to a reference, upon the award, both bull and boat were acquitted; it being proved that the tide of the river carried them both away: upon which I gave it as my opinion, that as the tide of the river carried both bull and boat away, both bull and boat had a good action against the water-bailiff.

"My opinion being taken, an action was issued; and upon the traverse, this point of law arose, how, wherefore, and whether; why, when, and what; whatsoever, whereas, and whereby, — as the boat was not a *compos mentis* evidence, how could an oath be administered? That point was soon settled by Boatum's attorney declaring that for his client he would swear any thing.

"The water-bailiff's charter was then read, taken out of the original record in true law Latin, which set forth in their declaration, that they were carried away, either by the tide of flood or the tide of ebb. The charter of the water-bailiff was as follows: '*Aquæ bailiffi est magistratus in choisi, sapor omnibus fishibus qui habuerunt finnos et scalos, claws, shells, et talos, qui swimmare in freshibus vel saltibus riveris, lakos, pondis, canalibus, et well-boats, sive oysteri, prawni, whitini, shrimpi, turbatus solus*;' that is, not turbot alone, but turbot and soals both together. But now comes the nicety of the law: the law is as nice as a new-laid egg, and not to be understood by addle-headed people. Bullum and Boatum mentioned both ebb and flood to avoid quibbling; but it being proved that they were carried away, neither by the tide of flood nor by the tide of ebb, but exactly upon the top of high water, they were nonsuited: but such was the lenity of the court, upon their paying all costs, they were allowed to begin again, *de novo*."

VIII.

LAW CLERKS AND LAW STUDENTS.

A CLERKSHIP to an attorney is probably not better adapted to the expansion of the intellect than walking the tight-rope, or heading pins, or keeping a toll-gate. William Cobbett, the author or editor of "The Political Register," who served in the capacity of attorney's clerk for some time, has recorded his disgust for the occupation: "When I think of the saids and so forths, and the counts of tautology, that I scribbled over; when I think of those sheets of seventy-two words, and those lines two inches apart, — my brain turns. Gracious Heaven! if I am doomed to be wretched, bury me beneath Iceland snows, and let me feed on blubber; stretch me under the burning line, and deny me the propitious dews; nay, if it be thy will, suffocate me with the infected and pestilential air of a Democrat's club-room; but save me, whatever you do, save me from the desk of an attorney." Lord Brougham said, "*Even* a year in an attorney's office, as the law is now practiced, I should not hold too severe a task, nor too high a price to pay, for the benefit it must surely lead to." The author of "The Pleader's Guide" thus recorded his disgust at the occupation: —

"And better to improve your taste,
Are by your parents' fondness plac'd

Among the best, the chosen few
 (Blest, if their happiness they knew),
 Who, for three hundred guineas paid
 To some great master of the trade,
 Have at his rooms, by special favor,
 His leave to use their best endeavor,
 By drawing pleas, from nine to four,
 To earn him thrice three hundred more,
 And after dinner, may repair
 To 'foresaid rooms, and then and there
 Have 'foresaid leave, from five to ten,
 To draw th' aforesaid pleas again."

Perhaps, too, the familiarity with petty meannesses has a tendency to blunt the sensibilities. I shall never forget the shock I underwent as a fresh law-clerk, when I discovered the amount of virtual lying tolerated under a "general denial." Possibly it is a similar shock that drives some into dissipation; for I believe law-clerks are notoriously rakish and drunken, at least in England. Such were the four clerks of Dodson and Fogg, in "*Pickwick Papers*," the attorneys for Mrs. Bardell, on whom Mr. Pickwick and Sam Weller made a call to see if that cause of action could not be compromised, — an unwise step at all times, and which at this particular time resulted in Mr. Pickwick's being served with the process. While Mr. Pickwick and Sam were waiting in the ante-room for an interview with the attorneys, they heard some of the conversation of these nice young men, to which let us listen again: —

"'That was a game, wasn't it?' said one of the gentlemen, in a brown coat and brass buttons, inky drabs, and bluchers, at the conclusion of some inaudible relation of his previous evening's adventures.

“‘Devilish good, devilish good,’ said the seidnitz-powder man.

“‘Tom Cummins was in the chair,’ said the man with the brown coat: ‘it was half-past four when I got to Somers Town; and then I was so uncommon lushey that I couldn’t find the place where the latch-key went in, and was obliged to knock up the old ’ooman. I say, I wonder what old Fogg ’ud say if he knew it. I should get the sack, I s’pose — eh?’

“At this humorous notion all the clerks laughed in concert.

“‘There was such a game with Fogg here this mornin’,’ said the man in the brown coat, ‘while Jack was up stairs sorting the papers, and you two were gone to the stamp-office. Fogg was down here opening the letters, when that chap as we issued the writ against at Camberwell, you know, came in: what’s his name again?’

“‘Ramsey,’ said the clerk who had spoken to Mr. Pickwick.

“‘Ah! Ramsey, — a precious seedy-looking customer. “Well, sir,” says old Fogg, looking at him very fierce, — you know his way, — “well, sir, have you come to settle?” — “Yes, I have, sir,” said Ramsey, putting his hand in his pocket, and bringing out the money: “the debt’s two pound ten, and the costs three pound five; and here it is, sir:” and he sighed like bricks as he lugged out the money, done up in a bit of blotting-paper. Old Fogg looked first at the money and then at him; and then he coughed in his rum way, so that I knew something was coming. “You don’t know there’s a declaration filed, which increases the costs materially, I suppose?” said

Fogg. "You don't say that, sir," said Ramsey, starting back: "the time was only out last night, sir."—"I do say it, though," said Fogg: "my clerk's just gone to file it. Hasn't Mr. Jackson gone to file that declaration in Bullman and Ramsey, Mr. Wicks?" Of course I said yes; and then Fogg coughed again, and looked at Ramsey. "My God!" said Ramsey, "and here have I nearly driven myself mad, scraping this money together, and all to no purpose."—"None at all," said Fogg coolly: "so you had better go back and scrape some more together, and bring it here in time."—"I can't get it, by God!" said Ramsey, striking the desk with his fist. "Don't bully me, sir," said Fogg, getting into a passion on purpose. "I am not bullying you, sir," said Ramsey. "You are," said Fogg: "get out, sir; get out of this office, sir, and come back, sir, when you know how to behave yourself." Well, Ramsey tried to speak, but Fogg wouldn't let him; so he put the money in his pocket, and sneaked out. The door was scarcely shut, when old Fogg turned round to me, with a sweet smile on his face, and drew the declaration out of his coat-pocket. "Here, Wicks," says Fogg, "take a cab, and go down to the Temple as quick as you can, and file that. The costs are quite safe; for he's a steady man with a large family, at a salary of five and twenty shillings a week; and if he gives us a warrant of attorney, as he must in the end, I know his employers will see it paid; so we may as well get all we can out of him, Mr. Wicks: it's a Christian act to do it, Mr. Wicks; for with his large family, and small income, he'll be all the better for a good lesson against getting into debt; won't he, Mr. Wicks, won't he?" and he smiled so good-naturedly as he went away, that it was delightful to see

him. 'He is a capital man of business,' said Wicks, in a tone of the deepest admiration, 'capital, isn't he?'

"The other three cordially subscribed to this opinion, and the anecdote afforded the most unlimited satisfaction.

" 'Nice men these here, sir,' whispered Mr. Weller to his master: 'wery nice notion of fun they has, sir!'

A very celebrated fictitious law-clerk is *Uriah Heap*, in "David Copperfield," whose very name suggests wriggling meanness, and whom Dickens has depicted so vividly that he assumes the reality of an historical personage; who read "a great fat book, with such demonstrative attention, that his lank forefinger followed up every line as he read, and made clammy tracks along the page, like a snail;" whose nostrils seemed to twinkle, instead of his eyes; whose hand felt in the dark like a fish; who was "the umblest person going;" whose father, from having been a sexton, had become "a partaker of glory;" who was fond of passing an hour or two in the evening with Mr. Field, meaning the delectable writer on practice; we see him now, "kissing his hand, and leering at us like a mask," or making "motions with his mouth as if the pear were ripe already, and he were smacking his lips over it." To adopt Mr. Micawber's description of him, "transcendent and immortal hypocrite and perjurer."

Of very different stuff was the vocal *Dick Swiveller*, in the "Old Curiosity Shop," clerk for a time to the legal firm of Sampson Brass and his sister Sally, that "female dragon." But law with Richard was only an episode; and it is to be feared, if he had pursued it, that its irreconcilableness with literature would have deprived the world of those frequent "droppings into poetry," by

which he illustrated the most commonplace events of life. Blackstone and Murray deserted the Muse, and the mechanical routine of a clerk's desk would have quenched the divine afflatus in the soul of Swiveller himself.

David Copperfield was a law-clerk and law-student; but clearly he is an imaginary character, — a fiction of law. Those discussions between himself and his master and destined father-in-law, Mr. Spenlow, one of the firm of which the inexorable Jorkins was the other partner and constant scape-goat, on the subject of the ecclesiastical courts, never took place, I suspect. We believe in Uriah and Swiveller, and Dodson and Fogg's young gentlemen, but not in David. He is much too good to be true; that is to say, he was never bound to the law. Such an apprenticeship would have made a different article of him. I know what I risk in thus asserting my disbelief in David as a clerk; but I reiterate the language of Betsy Prig, when she denied the existence of Mrs. Harris, "I don't believe there's no sich a person."

On the other hand, one readily gives credit to Lovel, the clerk of Samuel Salt, in Lamb's essay on "The Old Benchers of the Inner Temple." He was Salt's savor.

"Lovel took care of every thing. He was at once his clerk, his good servant, his dresser, his friend, his 'flapper,' his guide, stop-watch, auditor, treasurer. He did nothing without consulting Lovel, nor failed in any thing without expecting and fearing his admonishing. He put himself almost too much in his hands, had they not been the purest in the world. He resigned his title almost to respect as a master, if L. could ever have forgotten for a moment that he was a servant.

"I knew this Lovel. He was a man of an incorrigible

and losing honesty. A good fellow withal, and 'would strike.' In the cause of the oppressed he never considered inequalities, or calculated the number of his opponents. He once wrested the sword out of the hand of a man of quality, that had drawn upon him, and pommelled him severely with the hilt of it. The swordsman had offered insult to a female, — an occasion upon which no odds against him could have prevented the interference of Lovel. He would stand next day bare-headed to the same person, modestly to excuse his interference; for L. never forgot rank where something better was not concerned. L. was the liveliest little fellow breathing; had a face as gay as Garrick's, whom he was said greatly to resemble (I have a portrait of him which confirms it); possessed a fine turn for humorous poetry, — next to Swift and Prior; moulded heads in clay or plaster of Paris to admiration, by the dint of natural genius merely; turned cribbage-boards and such small cabinet toys to perfection; took a hand at quadrille or bowls with equal facility; made punch better than any man of his degree in England; had the merriest quips and conceits; and was, altogether, as brimful of rogueries and inventions as you could desire. He was a brother of the angle, moreover, and just such a free, hearty, honest companion as Mr. Izaak Walton would have chosen to go a-fishing with."

We get another glimpse of law-students in "Pictures of the French." In reproducing some of these literary delineations, I regret that I cannot also place before the reader some of the graphic accompaniments which add so much to this volume. The first thing the French law-student does on entering upon his studies, is to get him

a companion to keep house for him, a female one of course. "The loves of the student and the grisette are none of those headstrong passions which make all the weeping and wailing of our modern drama: in a short time he treats her hardly better than a maid-servant, sends her on errands, and makes her get him tobacco, brandy, and ham for supper." This seems a very improper association; but we are reminded by Lord Campbell, in his life of Lord Thurlow, who had three illegitimate daughters, that up to the close of the eighteenth century, "a majority of the judges had married their mistresses. The understanding then was, that a man elevated to the bench, if he had a mistress, must either marry her or put her away." And he wickedly adds, "For many years there has been no necessity for such an alternative." After this we may not be censorious as to the Frenchman's morals, nor surprised at learning that "his law-library consists of 'Beranger's Songs,' 'Voltaire's Tales,' 'The Contract Social,'—an odd volume of one of Paul de Kock's novels,—and a few more old tomes."

"If we were asked by what outward signs the law-student may be recognized, we should reply that he does not dress in the latest fashion, but that he creates a fashion for himself. He takes care to let his hair and his beard grow, in order, as he says, not to look like a grocer; but at certain periods of the year, before the examinations, these signs of anarchy disappear. His head resembles the style of a member of the Jacobin Club; his tuft and moustache that of a gallant at the court of Louis XIII.

A colossal pipe is absolutely indispensable to the

student: he is a wholesale smoker. His pipe-bowl attests the skill of the smoker, and presents the effigy of a Turk, Henry IV., Robert Macaire, Francis I., St. Just, or some other hero.

"He is king of the Latin quarter; at the theatre he lords it; he lords it in the tavern; he lords it in the street.

"The fine arts,—literature, philosophy, and politics,—he will study them all, every thing but his law. He devours the new novels, and decides the fate of the last new play. The portrait of Madame George Sand, hooked by a pin to his bed's head, bears witness to his enthusiastic admiration for that distinguished hermaphrodite."

He has the *cacoethes scribendi*. "The tales he composes almost invariably begin, 'It was in a lovely morning of spring, that two men, wrapped in large cloaks, were silently descending the hill,' etc. Or sometimes he rushes *in medias res*: 'By the mass!' exclaimed our young hero, as he emptied at a draught his goblet of Hungarian wine, 'we live, my lords, in times,' etc. His poetry is generally consumptive, languid, pulmonary, giving over, and given over by, all the world; full of I's and interjections; as, for instance,—

"I wander weary and alone,
 Along the world: an outcast moan
 Breaks from my pallid lips!
 All things are born to nurse my sadness!
 My heart is struck with gall and madness,
 My soul is in eclipse!"

These things, of course, are only written — never read.

"The deadliest animosity burns between the law-

student and the policeman. They are foes as irreconcilable as the Capulets and the Montagues.

"It is rare that the law-student does not play on some instrument. He takes lessons on the flageolet, the German flute, or the French horn ; or at least he can crow an air on the accordeon.

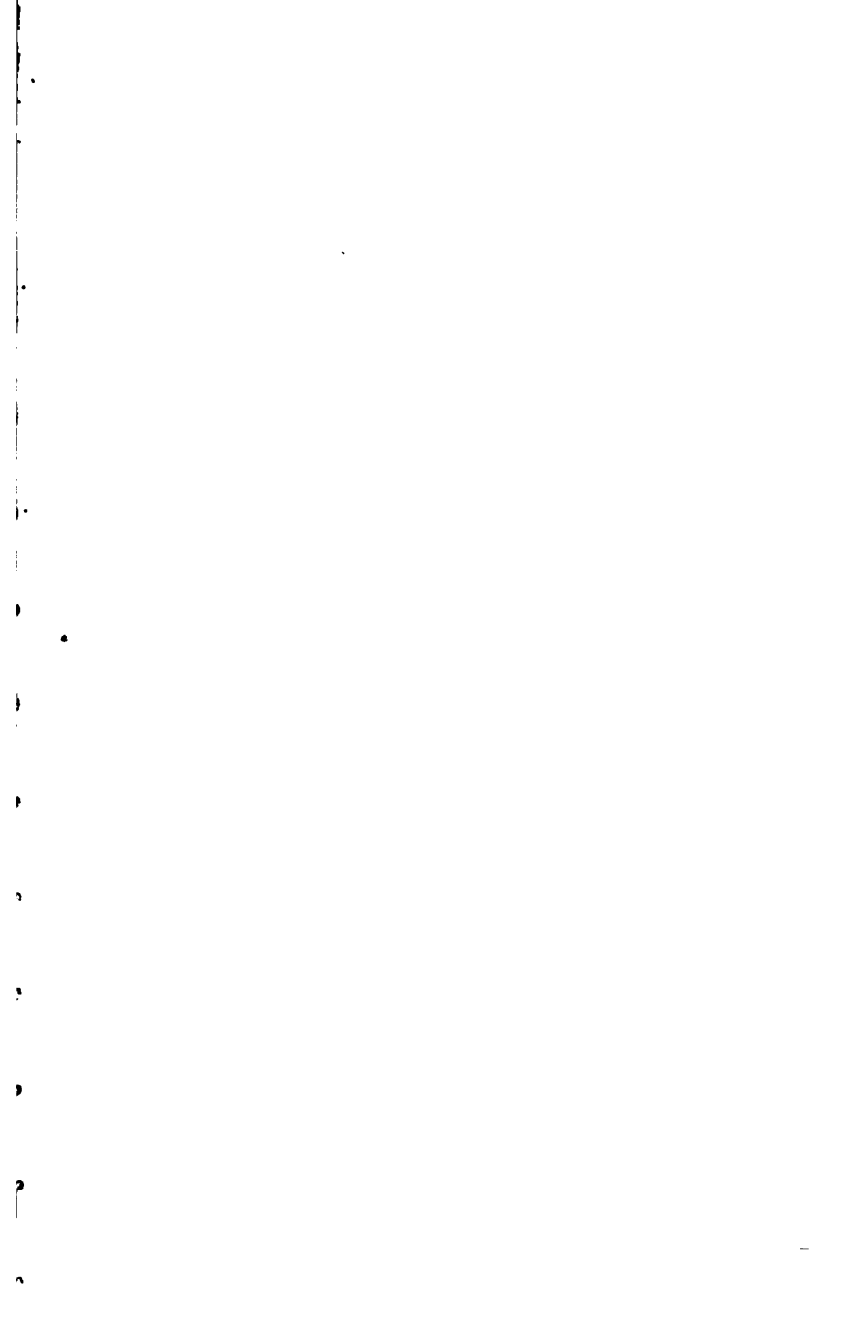
"Three, four, or five years suffice for the student to pass triumphantly through his five probations, including the thesis. You may recognize in an instant in the Salle des Pas Perdus—the Westminster Hall of Paris—him who has just been called. He flaunts along in his borrowed gown ; his heaving breast raises the tawny frill ; he carries under his arm an immense portfolio, stuffed with papers, to simulate the absent briefs."

"In the spouting-clubs, where the student and junior advocates learn the art of defending the widow and the orphan, the youthful aspirant pleads with equal emphasis and erudition. He quotes the year-books and the digest, Pothier and Gaius, and crams his speech with scraps of Latin. 'Yes !' he exclaims, 'in the question now before us, my learned friend on the other side is *penitus extraneus* ; he is urged on by the hope of gain, *certat de lucro captando* : while we—we *certantes de damno vitando*.' The junior advocate is fond of anticipating the arguments of the other side ; and it is extraordinary if you do not detect in his speech two or three phrases pronounced in a shrill voice, and beginning, 'My friends on the other side will, perhaps,'—and then, after enumerating these imaginary objections, he throws back his sleeves, raises his arms to heaven, and exclaims, 'Is it possible to imagine—I ask, gentlemen, whether it be possible to imagine a line of argument more entirely

unsupported by the facts of the case, more contrary to the principles of law, more extravagant to the ears of the court, more — I check myself, gentlemen, lest my rising indignation should lead me to forget what is due to the audience which I have the honor of addressing.' ”

These extracts convince us that no profounder truth was ever uttered than when Major Jack Downing said, “There’s a great deal o’ human natur in mankind in gineral.”

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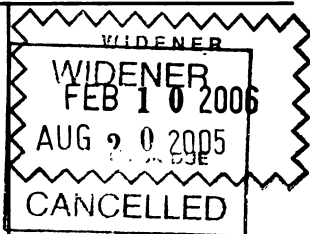




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